

ESKRIDGE LAW

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**SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES – CENTRAL DISTRICT**

ELIZABETH L. GREENWOOD,

Plaintiff,

v.

CITY OF LOS ANGELES, a municipal corporation; OFFICE OF THE LOS ANGELES CITY ATTORNEY, a department of the CITY OF LOS ANGELES; MICHAEL N. FEUER, CITY ATTORNEY, an individual; CORY BRENT, an individual; and DOES 1 through 20, inclusive,

Defendants.

CASE NO.: 19STCV02469

FIRST AMENDED AND SUPPLEMENTAL COMPLAINT FOR:

- 1. Discrimination On the Basis of Physical Disabilities in Violation of the Fair Employment and Housing Act [Including, specifically, Gov. Code § 12940(a)]**
- 2. Failure to Engage in the Interactive Process in Violation of the Fair Employment and Housing Act [Including, specifically, Gov. Code § 12940(n)]**
- 3. Failure to Accommodate Physical Disabilities in Violation of the Fair Employment and Housing Act [Including, specifically, Gov. Code § 12940(m)]**
- 4. Harassment On the Basis of Physical Disabilities in Violation of the Fair Employment and Housing Act [Including, specifically, Gov. Code § 12940(j)]**
- 5. Discrimination on the Basis of Sex in Violation of the Fair Employment and Housing Act [Including, specifically, Gov. Code § 12940(a)]**
- 6. Harassment on the Basis of Sex in Violation of the Fair Employment and Housing Act [Including, specifically, Gov. Code § 12940(j)]**

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Defendants.

CASE NO.: 19STCV02469

**FIRST AMENDED AND SUPPLEMENTAL
COMPLAINT FOR:**

- 7. Retaliatory Discrimination (Retaliation) in Violation of the Fair Employment and Housing Act [Including, specifically, Gov. Code § 12940(h)]**
- 8. Discrimination for Exercising the Right to Medical Leave Pursuant to the California Family Rights Act [Including, specifically, Gov. Code § 12945.2(l)]**
- 9. Interference in Violation of the California Family Rights Act [Including, specifically, Gov. Code § 12945.2(t), and 2 Cal. Code Regs. § 11094]**
- 10. Failure to Take All Reasonable Steps to Prevent Discrimination and Harassment in Violation of the Fair Employment and Housing Act [Including, specifically, Gov. Code § 12940(k)]**
- 11. Retaliation in Violation of the First Amendment**
- 12. Whistleblowing – Common Law Retaliation in Violation of Public Policy**
- 13. Whistleblowing – Retaliation in Violation of California Labor Code section 1102.5**

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13 **COUNTY OF LOS ANGELES – CENTRAL DISTRICT**
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15 ELIZABETH L. GREENWOOD,

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17 v.

18 CITY OF LOS ANGELES, a municipal
19 corporation; OFFICE OF THE LOS
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21 department of the CITY OF LOS ANGELES;
22 MICHAEL N. FEUER, CITY ATTORNEY,
23 an individual; CORY BRENT, an
24 individual; and DOES 1 - 20, inclusive,

25 Defendants.

CASE NO.: 19STCV02469

**FIRST AMENDED AND SUPPLEMENTAL
COMPLAINT FOR:**

**14. Whistleblowing – Violation of Labor Code
section 6310**

Dept: 73
Judge: Hon. Rafael A. Ongkeko
(and Hon. Christopher K. Lui)

Case Filed: January 25, 2019
CMC: May 17, 2019
Trial Date: Not set

TABLE OF CONTENTS

PARTIES.....	7
JURISDICTION AND VENUE.	8
FACTS COMMON TO MULTIPLE CAUSES OF ACTION.	10
CAUSES OF ACTION.	53
FIRST CAUSE OF ACTION – DISCRIMINATION ON THE BASIS OF PHYSICAL DISABILITIES IN VIOLATION OF THE FAIR EMPLOYMENT AND HOUSING ACT [Including, Specifically, Gov. Code § 12940(a)].....	53
SECOND CAUSE OF ACTION – FAILURE TO ENGAGE IN THE INTERACTIVE PROCESS IN VIOLATION OF THE FAIR EMPLOYMENT AND HOUSING ACT [Including, Specifically, Gov. Code § 12940(n)].....	66
THIRD CAUSE OF ACTION – FAILURE TO ACCOMMODATE PHYSICAL DISABILITIES IN VIOLATION OF THE FAIR EMPLOYMENT AND HOUSING ACT [Including, Specifically, Gov. Code § 12940(m)].	77
FOURTH CAUSE OF ACTION– HARASSMENT ON THE BASIS OF PHYSICAL DISABILITIES IN VIOLATION OF THE FAIR EMPLOYMENT AND HOUSING ACT [Including, specifically, Gov. Code § 12940(j)].	88

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1	FIFTH CAUSE OF ACTION – DISCRIMINATION ON THE BASIS OF SEX IN	
2	VIOLATION OF THE FAIR EMPLOYMENT AND HOUSING ACT [Including,	
3	specifically, Gov. Code § 12940(a)].	100
4		
5	SIXTH CAUSE OF ACTION – HARASSMENT ON THE BASIS OF SEX IN VIOLATION	
6	OF THE FAIR EMPLOYMENT AND HOUSING ACT [Including, specifically, Gov. Code	
7	§ 12940(j)].	109
8		
9	SEVENTH CAUSE OF ACTION – RETALIATORY DISCRIMINATION	
10	(RETALIATION) IN VIOLATION OF THE FAIR EMPLOYMENT AND HOUSING ACT	
11	[Including, specifically, Gov. Code § 12940(h)].	118
12		
13	EIGHTH CAUSE OF ACTION – DISCRIMINATION FOR EXERCISING THE RIGHT	
14	TO MEDICAL LEAVE PURSUANT TO THE CALIFORNIA FAMILY RIGHTS ACT	
15	[Including, specifically, Gov. Code § 12945.2(l)].	124
16		
17	NINTH CAUSE OF ACTION – INTERFERENCE IN VIOLATION OF THE	
18	CALIFORNIA FAMILY RIGHTS ACT [Including, specifically, Gov. Code § 12945.2(t), and	
19	2 Cal. Code Regs. § 11094]].	135
20		
21	TENTH CAUSE OF ACTION – FAILURE TO TAKE ALL REASONABLE STEPS TO	
22	PREVENT DISCRIMINATION AND HARASSMENT IN VIOLATION OF THE FAIR	
23	EMPLOYMENT AND HOUSING ACT [Including, specifically, Gov. Code § 12940(k)]. . . .	138
24		
25	ELEVENTH CAUSE OF ACTION – RETALIATION IN VIOLATION OF THE FIRST	
26	AMENDMENT.	141

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1 TWELFTH CAUSE OF ACTION – WHISTLEBLOWING – COMMON LAW
2 RETALIATION IN VIOLATION OF PUBLIC POLICY..... 150
3
4 THIRTEENTH CAUSE OF ACTION – WHISTLEBLOWING – RETALIATION IN VIOLATION
5 OF CALIFORNIA LABOR CODE SECTION 1102.5..... 161
6
7 FOURTEENTH CAUSE OF ACTION – WHISTLEBLOWING – VIOLATION OF LABOR
8 CODE SECTION 6310. 173
9
10 PRAYER FOR RELIEF..... 184
11
12 DEMAND FOR JURY TRIAL. 187
13
14
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16
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1 Plaintiff ELIZABETH L. GREENWOOD (“Plaintiff”) alleges as follows:
2

3 **PARTIES**

4 1. At all relevant times herein, Plaintiff has been a resident of the County of Los Angeles, State
5 of California.

6 2. At all relevant times herein, Defendant CITY OF LOS ANGELES (“Defendant CITY”) has
7 been a municipal corporation in the County of Los Angeles, State of California.

8 3. At all relevant times herein, Defendant OFFICE OF THE LOS ANGELES CITY
9 ATTORNEY (“Defendant CITY ATTORNEY’S OFFICE”) has been a department of Defendant CITY.

10 4. At all relevant times herein, Defendant MICHAEL N. FEUER, CITY ATTORNEY
11 (“Defendant FEUER”) has been the City Attorney for Defendant CITY. Defendant FEUER is, and at all
12 relevant times has been, the City Attorney, and therefore a managing agent of Defendant CITY and
13 Defendant CITY ATTORNEY’S OFFICE as defined in *White v. Ultramar, Inc.* (1999) 21 Cal.4th 563.
14 (Defendant FEUER, Defendant CITY, and Defendant CITY ATTORNEY’S OFFICE may be jointly
15 referred to herein as the “EMPLOYER Defendants.”)

16 5. EMPLOYER Defendants (including Defendant FEUER) have been, at all relevant times
17 herein, employers pursuant to the Fair Employment and Housing Act because each and all of them
18 “regularly employ five or more persons, or act as an agent of an employer, directly, or indirectly.” [Gov.
19 Code § 12962(d); 2 Cal. Code Regs. § 11008(d).]

20 6. EMPLOYER Defendants (including Defendant FEUER) have been, at all relevant times
21 herein, employers pursuant to the Fair Employment and Housing Act because each and all of them have had
22 the authority to control the means and manner of the employment of Plaintiff and other employees, the
23 power to determine the schedule and assignments of Plaintiff and other employees, and the power to
24 promote and discharge Plaintiff and other employees.

25 7. Plaintiff is informed and believes, and based thereon alleges, that at all relevant times herein,
26 Defendant CITY OF LOS ANGELES and Defendant CITY ATTORNEY’S OFFICE were and now are
27 valid government entities, duly organized and existing under the laws of the State of California, having their
28 principal places of business in the County of Los Angeles, State of California.

8. Plaintiff is informed and believes, and based thereon alleges, that Defendant FEUER is an elected official, who is in charge of and responsible for Defendant CITY ATTORNEY'S OFFICE, and who serves as the lawyer for Defendant CITY OF LOS ANGELES.

9. At all relevant times herein, Defendant CORY BRENTÉ (“Defendant BRENTÉ”) has been an individual residing in the County of Los Angeles, State of California. Defendant BRENTÉ is, and at all relevant times has been, a Supervising Assistant City Attorney employed by EMPLOYER Defendants, and assigned to the Police Litigation Unit of Defendant CITY ATTORNEY’S OFFICE. At all relevant times herein, Defendant BRENTÉ was acting in the course and scope of his employment with EMPLOYER Defendants, as a supervisor, manager, director, or agent of EMPLOYER Defendants.

10. Plaintiff is ignorant of the true names and capacities, whether individual, corporate, associate, or otherwise, of Defendants named herein as DOES 1 through 20, inclusive, and therefore sues those Defendants by such fictitious names. DOES 1 through 10 are DOE defendants who are **not** public entities. DOES 1 through 20 are DOE defendants who **are** public entities. Plaintiff will amend this complaint to allege the true names and capacities of the Defendants designated as DOES 1 through 20, inclusive, when they have been ascertained. Plaintiff is informed and believes, and on that basis alleges, that Defendants designated herein as DOES 1 through 20, inclusive, are responsible in some manner for the acts, events and occurrences alleged herein, and caused or contributed to the damages sustained by Plaintiff. (DOES 1 through 20 are hereafter referred to as “DOE Defendants.”)

11. Plaintiff is informed and believes, and on that basis alleges, that at all relevant times herein, the Defendants designated herein as DOES 1 through 20, inclusive, acted as the agents and/or employees of the EMPLOYER Defendants and of the other fictitiously-named Defendants. Each of them, while acting in the course and scope of their agency and/or employment, performed the acts and conduct hereinafter alleged, and said acts and conduct were ratified and approved by each Defendant.

JURISDICTION AND VENUE

12. The EMPLOYER Defendants are subject to suit under the California Fair Employment and Housing Act (“FEHA”) [Gov. Code §§ 12900, *et seq.*], since they were “employers” pursuant to the FEHA and therefore covered by the FEHA. The EMPLOYER Defendants employed Plaintiff throughout the

1 relevant period. The FEHA applies to the EMPLOYER Defendants because they regularly employed five
2 or more persons and are doing business in the State of California. [Gov. Code § 12926(d); 2 Cal. Code
3 Regs. § 11008(d).] Among other things, the FEHA prohibits discrimination and harassment on the basis
4 of physical disability and sex, and retaliation for complaining about discrimination and/or harassment. The
5 FEHA also prohibits violation of the California Family Rights Act (“CFRA”)¹, and retaliation for
6 complaining about violation of the CFRA.

7 13. Defendant BRENTÉ is subject to suit for harassment pursuant to the FEHA pursuant to
8 Government Code section 12940(j).

9 14. Plaintiff filed her original charges against EMPLOYER Defendants and Defendant BRENTÉ
10 with the Department of Fair Employment and Housing (“DFEH”) on September 4, 2018, filed revised
11 charges against EMPLOYER Defendants and Defendant BRENTÉ with the DFEH on January 14, 2019,
12 and filed further revised charges on March 5, 2019. On both occasions, Plaintiff was provided with a
13 Notice of Case Closure (Right-To-Sue Letter) against EMPLOYER Defendants and Defendant BRENTÉ.
14 Plaintiff served the revised DFEH Complaint and Notice of Case Closure (Right-To-Sue Letter) on
15 EMPLOYER Defendants and Defendant BRENTÉ before filing the original Complaint in this matter.
16 Plaintiff served the second revised DFEH Complaint and Notice of Case Closure (Right-To-Sue Letter) on
17 EMPLOYER Defendants and Defendant BRENTÉ before filing the First Amended and Supplemental
18 Complaint. Plaintiff has therefore exhausted all administrative remedies necessary relating to her claims
19 under the FEHA, and has timely brought this action.

20 15. True and correct copies of Plaintiff’s revised DFEH Complaint and Notice of Case Closure
21 (Right-to-Sue Letter), dated January 14, 2019, are attached hereto as Exhibit 1, and incorporated herein by
22 this reference as though fully set forth. Copies of the proofs of service of Plaintiff’s Amended DFEH
23 Complaint and Notice of Case Closure (Right-to-Sue Letter), dated January 15, 2019, on each of the named
24 Defendants are attached hereto as Exhibit 2, and incorporated herein by this reference as though fully set
25 forth at this point. True and correct copies of Plaintiff’s further revised DFEH Complaint and Notice of
26

27 ¹What is commonly referred to as the California Family Rights Act is officially named the Moore-
28 Brown-Roberti Family Rights Act. Therefore, as used herein, “California Family Rights Act” refers to the
Moore-Brown-Roberti Family Rights Act.

Case Closure (Right-to-Sue Letter), dated March 5, 2019, are attached hereto as Exhibit 3, and incorporated herein by this reference as though fully set forth. Copies of the proofs of service of Plaintiff's Amended DFEH Complaint and Notice of Case Closure (Right-to-Sue Letter), dated March 18, 2019, on each of the named Defendants, are attached hereto as Exhibit 4, and incorporated herein by this reference as though fully set forth at this point.) This court has jurisdiction to hear statutory claims brought pursuant to the FEHA against EMPLOYER Defendants and Defendant BRENT

16. Plaintiff also filed a Claim for Damages (Claim No. C19-05311) with the City of Los Angeles on March 21, 2019. This Court therefore has jurisdiction to hear all claims which are brought against the public entities.

FACTS COMMON TO MULTIPLE CAUSES OF ACTION

17. Plaintiff is a 54-year-old female who has multiple physical disabilities.

18. Plaintiff has been employed as a Deputy City Attorney with EMPLOYER Defendants since July 1996, when she began as a Deputy City Attorney I, Step A. In May 1998, Plaintiff was assigned to Central Trials. In March 1999, Plaintiff was assigned to the Gangs Unit, where she worked as a prosecutor from 1999 to 2007. In March 2007, Plaintiff was transferred to Homeland Security and promoted to Deputy City Attorney III, Step G (equivalent to Step 13 under the new system). In March 2009, she was transferred to the Neighborhood Prosecutor Program, working as Neighborhood Prosecutor – South Bureau. In that position, Plaintiff attended community meetings and prosecuted projects and issues which were most negatively affecting the area to which she was assigned.

19. Over the years, Plaintiff has received numerous awards and recognitions from Defendant CITY ATTORNEY'S OFFICE, the Los Angeles Police Department, the Office of the District Attorney, the County of Los Angeles, the California State Senate, the California Legislature Assembly, and Congresswoman Jane Harman. Plaintiff has been positively mentioned in the *Daily Breeze* about 20 times.

20. In 2009, Plaintiff began suffering from back pain, as a result of being required to sit at a desk long hours at work, and being provided with inadequate office furniture and equipment. On November 3, 2009, Plaintiff was diagnosed by Roy Simon, M.D. as having severe lumbar radiculopathy. Plaintiff underwent x-rays and an MRI of her spine on November 9, 2009; based on that, Arnold Rappaport, M.D.

1 diagnosed her as having disc degenerative changes at multiple levels, and disc protrusion at the L4-5 level,
2 resulting in a mild neural foraminal stenosis.

3 21. On November 17, 2009, December 1, 2009, January 8, 2010, and February 2, 2010, Plaintiff
4 underwent lumbar epidural steroid injections and selective nerve root blocks at L5-S1 (left side). Plaintiff
5 informed her immediate supervisor at the time, Sonja Dawson (Supervising Neighborhood Prosecutor –
6 South Bureau), and the Human Resources Department of her diagnosis, and of her need to take time off for
7 the medical procedures (which was usually one day per procedure, although a couple times she was off three
8 days per procedure due to anaphylactic reactions). In addition to the procedures mentioned above, Plaintiff
9 went to physical therapy three times per week at multiple locations, and also worked with a strength trainer.

10 22. Despite the aggressive treatment, Plaintiff's symptoms worsened. By March 2010, she had
11 pain when sitting at her desk, driving, lifting, carrying, reaching, bending, and squatting. Her diagnosis at
12 that time (by William Dillin, M.D.) was: 1) Lumbar Degenerative Disc Disease, 2) Lumbar Radiculopathy,
13 and 3) Lumbar Disc Herniation. Lumbar spine surgery was recommended. On March 12, 2010, Plaintiff
14 underwent spinal surgery, having: 1) A left L4-L5 Modified Microdiscectomy; 2) A left L4
15 Hemilaminotomy; and (3) A left L4-L5 Lateral Recess Resection. She was on leave pursuant to the Family
16 and Medical Leave Act ("FMLA") and CFRA for three months, from approximately March 11 through June
17 5, 2010.

18 23. Prior to Plaintiff's surgery and CFRA leave, she had been assigned to the Neighborhood
19 Prosecutor Program – South Bureau, where she interacted with the community and served as a
20 Neighborhood Prosecutor. She enjoyed this job because it involved working with the community and being
21 in court. Plaintiff had an office in the San Pedro City Hall during the time she was a Neighborhood
22 Prosecutor, which worked well since Plaintiff resided in San Pedro.

23 24. On September 7, 2010, Plaintiff was transferred to Housing Enforcement because of a
24 request by Mary Clare Molidor. Plaintiff did not want this transfer because, for someone who had been a
25 prosecutor in the Gang Unit, then an attorney in Homeland Security, then a Neighborhood Prosecutor, being
26 transferred to Housing Enforcement was not a forward trajectory for her career path, and was not even a
27 lawyer type of job. However, Mary Clare Molidor told Plaintiff she would continue to be working out of
28 an office in San Pedro (which was of course important to Plaintiff because driving exacerbated her lumbar

1 spine disability), and attempted to convince Plaintiff that even though the position was not really an attorney
2 position, but actually more of a mediator position, once she got into the position, she would like it. At
3 Housing Enforcement, Plaintiff mediated disputes between landlords and tenants related to landlords
4 allegedly not complying with the Los Angeles Rent Stabilization Ordinance. Although she did not like the
5 job at first, Mary Clare Molidor was right – after Plaintiff performed this job for a while, she came to enjoy
6 it because she thought she was making a difference in peoples’ lives. (These are the same people Donald
7 Cocek would later refer to as “all these crazy people,” on his first day of work as Supervising City Attorney,
8 Code Enforcement Section.)

9 25. In September 2010, Plaintiff informed her new supervisor, Jonathan Galatzan (Supervising
10 Attorney, Housing Enforcement), of her lumbar spine disability almost immediately after being transferred
11 to Housing Enforcement. Later in September 2010, Plaintiff told Jonathan Galatzan about the lower back
12 pain she was having, especially when sitting in her desk chair at work. (Plaintiff was working from an
13 office in the San Pedro City Hall at this time, so at least she did not have to spend hours driving.) Over the
14 next few months, Plaintiff repeatedly told Jonathan Galatzan about the pain she was experiencing while
15 sitting, but Defendants failed to initiate a timely, good-faith, interactive process or to do anything else
16 regarding Plaintiff’s complaints of pain caused by sitting at her desk.

17 26. In early 2011, Roy Simon, M.D. prescribed Plaintiff an anti-inflammatory and a pain
18 medication, and also prescribed that she have an ergonomic chair for work, and that an ergonomic
19 evaluation of her office be conducted. Plaintiff submitted the prescription for the ergonomic chair to the
20 Human Resources Department, but absolutely no action was taken.² Plaintiff continued complaining to
21 Jonathan Galatzan about her ongoing back pain while sitting in her desk chair. She asked him to try to get
22 the Human Resources Department to arrange for the ergonomic evaluation, but he was no help at all.

23 27. In fact, rather than attempt to assist Plaintiff in obtaining the ergonomic evaluation, in spring
24 and summer 2011, Jonathan Galatzan began harassing and discriminating against Plaintiff.³ For example,

25
26 ²This was the first of many requests Plaintiff made for reasonable accommodations for her physical
27 disability.

28 ³This was the beginning of the harassment and discrimination to which Plaintiff has been subjected
because of her physical disability.

1 although Plaintiff was already mediating disputes between landlords and tenants related to landlords
2 allegedly not complying with the Los Angeles Rent Stabilization Ordinance on a city-wide basis (while
3 working from an office in the San Pedro City Hall), Jonathan Galatzan assigned Plaintiff additional work
4 consisting of code violation cases which required her to travel to downtown Los Angeles on a regular basis.
5 This is not what Plaintiff had been assigned to do when Mary Clare Molidor caused Plaintiff to be
6 transferred into Housing Enforcement.⁴ Plaintiff did not want this new assignment and did not agree to it.
7 Plaintiff's workload mediating Rent Stabilization Ordinance violations city-wide was a full-time job, and
8 Plaintiff also spent several hours per week in her role as an elected commissioner of the Los Angeles City
9 Employees' Retirement System ("LACERS"). Adding code violation cases not only increased Plaintiff's
10 workload to about 60 hours per week, but required her to spend much more time in downtown Los Angeles,
11 rather than in her office in San Pedro. Also, rather than attempt to assist Plaintiff in obtaining the
12 ergonomic evaluation of her office (which was in San Pedro), Jonathan Galatzan assigned Plaintiff to a
13 work area in downtown Los Angeles which consisted of a desk in a storage closet, which was **less**
14 ergonomically correct than her office in San Pedro, and with a chair which was even more uncomfortable
15 than her chair in San Pedro. The additional travel of course exacerbated Plaintiff's disability, and she told
16 Jonathan Galatzan this. Jonathan Galatzan nonetheless left the code violation assignments on Plaintiff's
17 storage closet desk.

18 28. Throughout summer and fall, 2011, Plaintiff complained to Jonathan Galatzan about how
19 the downtown assignments were exacerbating her lumbar spine disability, due both to the travel and the
20 completely non-ergonomic storage closet office. Jonathan Galatzan responded on October 14, 2011, by
21 issuing a Notice to Correct Deficiencies to Plaintiff, in which he accused her of failing to file four code
22 violation cases on time, even though filing delays had been a longstanding problem within the Housing
23 Enforcement Department for many years before Plaintiff was assigned to the unit. Additionally, the practice
24 in Housing Enforcement was to delay the cases for years, until the owners were able to gather enough
25

26 ⁴Plaintiff's job, as requested by Mary Clare Molidor, Senior Assistant City Attorney in Charge of
27 Safe Neighborhoods, was to mediate and prosecute violations of the City's Rent Stabilization Ordinance.
28 It was not to prosecute families who had scraped together enough money to purchase an apartment building
where there had been a previous illegal subdivision.

1 money to make the repairs. It was not uncommon for cases to last several years. Sometimes when it was
2 clear the owners did not have any money to make repairs, cases lasted so long that the statute of limitations
3 ran. This was happening for years before Plaintiff began to be assigned the code violation cases (in addition
4 to her **full-time** assignment of mediating Rent Stabilization Ordinance violations).

5 29. In approximately November 2011, Jonathan Galatzan was replaced by Donald Cocek.
6 Plaintiff immediately told Donald Cocek about her back injury, about her pain issues, and about her request
7 for an ergonomic evaluation and an ergonomic chair, which she now needed in two offices (San Pedro and
8 downtown). Plaintiff asked whether there was anything Donald Cocek could do to assist in obtaining these
9 items. During late 2011 and 2012, Plaintiff repeatedly attempted to discuss her lumbar spine pain with
10 Donald Cocek, but every time Plaintiff tried to talk with Donald Cocek, he stared at Plaintiff's breasts the
11 entire time. (Donald Cocek also stared at Plaintiff's breasts every time she attempted to have a private
12 conversation with him, and even sometimes when other people were present. Plaintiff did not report this
13 sexual harassment, as it paled in comparison to the disability discrimination and harassment she was
14 experiencing at the time, and having been working for Defendant CITY and Defendant CITY
15 ATTORNEY'S OFFICE, sexual harassment was not new to her.)

16 30. Donald Cocek also constantly interrogated Plaintiff about the work she was doing for
17 LACERS.⁵ It seemed to irritate him that he could not manage all Plaintiff's time. He came up with more
18 and more requirements for Plaintiff to provide evidence regarding the time she spent working on LACERS,
19 what LACERS activities she engaged in, where those activities took place, and even the specific LACERS
20 activities in which she was engaged (which he had no authority to ask). When Plaintiff would inform
21 Donald Cocek regarding when and what she was doing for LACERS, and where she was doing it, he
22 accused her of lying. Donald Cocek even went to Earl Thomas, Chief of Criminal and Special Litigation
23 Division, about this, and Earl Thomas sent Plaintiff a memo on November 9, 2011. In that memo, Earl
24

25 ⁵Plaintiff is one of seven people who manage LACERS. She was elected to a five-year term in 2009,
26 and re-elected to a second five-year term in 2014. Defendant CITY and Defendant CITY ATTORNEY'S
27 OFFICE pay for Plaintiff's time spent serving LACERS. What Plaintiff is doing in her role as an elected
28 member of the Board of Administration of LACERS is none of Donald Cocek's business, but he frequently
interrogated Plaintiff about her work on LACERS, then accused her of lying when she explained what she
had been doing.

1 Thomas acknowledged that Plaintiff had “an obligation to perform fiduciary duties on behalf of LACERS,”
2 yet demanded that Plaintiff obtain advance approval from Donald Cocek before performing any of these
3 fiduciary duties. Around this time, Plaintiff applied for a position in San Pedro, but right after she applied,
4 the job requisition was canceled.

5 31. Plaintiff’s back pain continued to worsen through 2011 and 2012. She repeatedly told
6 Donald Cocek she was experiencing back pain, and needed an ergonomic evaluation of her office. Plaintiff
7 also called the Human Resources Department during this time, to ask that the ergonomic evaluation (for
8 which she had submitted a prescription in early 2011) be conducted without further delay. When Plaintiff
9 was out on sick leave because of agonizing back pain (and the lack of ergonomic evaluation of her office),
10 Donald Cocek harassed her by doing things such as sending her emails demanding that she submit her
11 schedule for the following week. In June 2012, Donald Cocek sent Plaintiff an email stating, “I want all
12 RSO hearings to be held at the Reyes Branch, not in San Pedro, West LA, or any other location. I will be
13 attending the hearings, too.” [Emphasis in original.]

14 32. Plaintiff continued to advise Donald Cocek of her back pain, and to discuss the fact that an
15 ergonomic evaluation of her office was needed. Rather than assist, however, in July 2012, Donald Cocek
16 took the job of mediating Rent Stabilization Ordinance violations away from Plaintiff, so that she was
17 handling code violation cases **exclusively**. When Plaintiff asked why he was doing this, Donald Cocek was
18 not able to articulate a reason. Additionally, the non-disabled male attorney to whom the work was
19 assigned (Michael Duran) did not even want the work. Changing Plaintiff’s job so that she was handling
20 code violation cases exclusively meant she was required to travel to downtown Los Angeles five days per
21 week, and sit at a non-ergonomic desk in a non-ergonomic chair in the non-ergonomic storage closet office.
22 These things exacerbated Plaintiff’s back pain, and she was in pain 100% of the time she was either at
23 work, or commuting to and from work.

24 33. On October 11, 2012, Plaintiff’s father died very unexpectedly. The stress of this death
25 exacerbated Plaintiff’s back pain, and she was forced to take accrued vacation and sick leave from
26 approximately October 2012 to approximately January 29, 2013. EMPLOYER Defendants were aware of
27 Plaintiff’s physical disability because she submitted a February 20, 2013 note from her primary care
28 physician, Terry Ishihara, M.D., to the Human Resources Department. (EMPLOYER Defendants required

1 Plaintiff to submit a note from her physician before they would classify any of her time off as sick leave.
2 Until she provided the note, the time off had been classified as accrued vacation.) **During** her medical
3 leave of absence, Donald Cocek sent Plaintiff numerous emails pressuring her to return to work and
4 hassling her about information on her time cards, among other things. Donald Cocek even continued to
5 assign cases to Plaintiff. As an example, he assigned the Vera Little matter to Plaintiff on November 2012,
6 then later criticized Plaintiff because she did not file the case until March 21, 2013 (less than two months
7 after she returned to work).

8 34. Worse yet, on the **first day** Plaintiff returned to work following her medical leave of
9 absence, Donald Cocek gave Plaintiff a Notice to Correct Deficiencies for failing to file cases which he had
10 assigned to her **after** she went out on approved leave, and the deadlines for which had passed **before** she
11 returned from leave. Knowing Plaintiff was out on extended leave, Donald Cocek should have assigned
12 the cases to other attorneys, but he did not. Instead, he kept the cases assigned to Plaintiff and waited for
13 the statutes of limitations to run out in some of the cases, and other deadlines to pass in other cases.⁶
14 Plaintiff refused to sign the Notice to Correct Deficiencies for events which happened while she was on
15 approved leave, and apparently Donald Cocek did not submit it to Personnel, because Plaintiff heard
16 nothing more about it. Donald Cocek later tried to give Plaintiff a Notice to Correct Deficiencies relating
17 to her work as an elected Commissioner of LACERS. Even though Donald Cocek had absolutely no
18 involvement with LACERS, he accused Plaintiff of falsifying her time sheets for the time she was
19 attributing to LACERS responsibilities. Plaintiff filed a grievance, Mary Clare Molidor mediated the
20 matter, and the Notice to Correct Deficiencies went away. Even at the end of the mediation, however,
21 Donald Cocek accused Plaintiff of “fudging” her time sheets. Plaintiff told Mary Clare Molidor she could
22 not work for someone who thought she was a liar. Donald Cocek responded that he did not think Plaintiff
23 was a liar, but that she needed to be honest on her time sheets. Therefore, although the Notice to Correct
24 Deficiencies went away, nothing changed in Donald Cocek’s treatment of Plaintiff.

25
26 ⁶Donald Cocek was normally not even concerned about statutes of limitations expiring, as evidenced
27 in his August 2, 2012 email to Roya Babazadeh and Shamika Harris where he describes that the statutes of
28 limitations had expired on certain files which his department apparently discovered when it was going
through its stored files in preparation for moving out of the building.

1 35. On June 3, 2013, Plaintiff was finally transferred to a position which was commensurate with
2 her many years of experience as a trial attorney. Plaintiff was transferred to the Police Litigation Unit,
3 where she defends multimillion-dollar claims against Defendant CITY in both state and federal court trials.
4 Plaintiff's supervisor in the Police Litigation Unit was (and still is) Defendant BRENTE, Supervising
5 Assistant City Attorney, Police Litigation Unit. This position involves longer hours than Plaintiff's
6 previous position, and a significant amount of responsibility, and Plaintiff should have been promoted to
7 at least a Deputy City Attorney IV, Step C, when she was transferred to this position, but she was not, as
8 a direct result of her sex and physical disability. Plaintiff alleges on information and belief that male, non-
9 disabled attorneys with less experience, who were performing substantially similar or even less complex
10 and less demanding work, were promoted to ranks of Deputy City Attorney IV, Step C, or higher.

11 36. Plaintiff informed Defendant BRENTE of her lumbar spine (musculoskeletal) disability, and
12 of the accommodations she needed for that disability, immediately upon being transferred to the Police
13 Litigation Unit in June 2013.

14 37. Although Plaintiff enjoyed the position in the Police Litigation Unit, she continued to suffer
15 constant pain related to her lumbar spine disability. She complained repeatedly to Defendant BRENTE
16 about the need for an ergonomic chair and for an ergonomic evaluation of her office. These complaints
17 lasted through the remainder of 2013 and to the present.

18 38. Despite her constant pain and disability-related absences, Plaintiff has been very successful
19 in her position as trial attorney with the Police Litigation Unit. In January 2014, she obtained a total
20 defense verdict in a federal court bench trial (*Gheli Carpaccio v. Sergeant Todd Cataldi, et al.*). In June
21 2015, she obtained a defense verdict in a federal court jury trial (*Robert S. Markman and Lisa J. Markman*
22 *v. Det. John Macchiarella, et al.*), and in September 2017, she won another major federal court jury trial
23 (*Raymond Hiawatha Porter v. City of Los Angeles, et al.*) – each time saving Defendant CITY potentially
24 hundreds of thousands of dollars. Plaintiff has in fact **never lost a trial** while in the Police Litigation Unit.

25 39. On her anniversary date in March 2014, Plaintiff should have been promoted to Deputy City
26 Attorney IV, Step D, but she was not. (She only received her small anniversary step, which is virtually
27 automatic.) Plaintiff alleges on information and belief that male, non-disabled attorneys with less
28 experience who were performing substantially similar or even less complex and less demanding work, were

1 promoted to ranks of Deputy City Attorney IV, Step D, or higher.

2 40. On her anniversary date in March 2015, Plaintiff should have been promoted to Deputy City
3 Attorney IV, Step E, but she was not, since she had never even been promoted to the Deputy City Attorney
4 IV position. (She only received her small anniversary step, which is virtually automatic.) Instead, she was
5 stuck in the Deputy City Attorney III, Step G, position, where she had been since March 23, 2007. This
6 failure and/or refusal to promote Plaintiff was a direct result of her sex and physical disability. Plaintiff
7 alleges on information and belief that male, non-disabled attorneys with less experience who were
8 performing substantially similar or even less complex and less demanding work, were promoted to ranks
9 of Deputy City Attorney IV, Step E, or higher.

10 41. Although Plaintiff was succeeding in the courtroom, she was continuing to experience
11 constant back pain, especially when working at the desk in her office. Her pain when sitting down was so
12 bad that she had family and friends drive her to and from work, and to and from the courthouses. Plaintiff's
13 back pain was so severe that she had to go to the emergency department of San Pedro Hospital on July 7,
14 2015. On July 8, 2015, Plaintiff reported to her doctor at Kerlan-Jobe that she had pain in her back and left
15 leg which had gotten worse, and that her symptoms worsened as she sat and drove. At the time, she was
16 unable to lift, carry, reach, bend, push, pull, climb, kneel, or squat. She was diagnosed with: 1) Lumbar
17 degenerative disc disease; 2) Lumbar radiculopathy; and 3) Status post lumbar discectomy. Plaintiff
18 continued to complain to Defendant BRENTÉ about her lumbar spine disability, and continued to request
19 accommodations as discussed above.

20 42. A July 13, 2015 MRI of Plaintiff's lumbar spine showed: 1) Degenerative disc disease at L4-
21 5 with a 2mm left lateral disc bulge/protrusion and contiguous 8x5mm left lateral extrusion effacing the
22 left L5 nerve root; 2) Left laminectomy; 3) Disc desiccation at L5-S1 with a 3mm left lateral disc bulge
23 abutting the left L5 and exiting the left L4 nerve roots; 4) Disc desiccation at L1-2 with a 12x4mm
24 contiguous and superior extrusion abutting the posterior margin of the L1 vertebral body; 5) Mild disc
25 desiccation at L3-4 with mild central canal stenosis due to facet and ligamentum flavum hypertrophy; 6)
26 Disc desiccation at the L2-3 level with a 1.5mm central and right lateral disc bulge; and 7) Possible
27 adenomyosis of the uterus. After that, Plaintiff began seeing Fabian Proano, M.D. for pain management.

28 43. Despite the continuous pain she was enduring, Plaintiff continued to prevail at trial. As

1 mentioned above, in June 2015 Plaintiff obtained a defense verdict in a federal court jury trial (*Robert S.*
2 *Markman and Lisa J. Markman v. Det. John Macchiarella, et al.*). Plaintiff continued trying to work and
3 to deal with her back pain. On August 12, 2015 and again on October 5, 2015, she had a procedure
4 consisting of lumbar selective nerve root blocks at the left L4-L5 level and a lumbar epidural steroid
5 injection at the L4-L5 level.

6 44. Having received no response from Defendant BRENTE to her two and one-half years of
7 requests for accommodations for her lumbar spine disability, on January 6, 2016, Plaintiff sent an email to
8 Wanda Hudson in the Human Resources Department, stating that she had two prescriptions – one for an
9 ergonomic chair and another for an ergonomic analysis of her office. Plaintiff explained to Wanda Hudson
10 that she had lower back surgery five years earlier and had a reoccurrence of the problem in June 2015.
11 Plaintiff explained that she was healing slowly and that although her office chair was only a couple years
12 old, after sitting in the chair for a while, she had quite a bit of pain and difficulty standing back up. Plaintiff
13 told Wanda Hudson that she hoped a new ergonomic chair, coupled with an ergonomic analysis of her
14 office, would help. Plaintiff attached the new prescription for her chair to the email and said she could also
15 get the prescription for the ergonomic analysis if needed. Plaintiff copied her supervisor, Defendant
16 BRENTE, on the email to Wanda Hudson and, on January 7, 2016, forwarded the email to Cristina Sarabia,
17 Human Resources Director.

18 45. On January 8, 2016, Cristina Sarabia sent an email in which she instructed Plaintiff to submit
19 her requests for an ergonomic chair and an ergonomic evaluation to the Occupational Safety and Health
20 Division of Defendant CITY's Personnel Department. Cristina Sarabia stated that Plaintiff needed to get
21 her supervisor to approve her request (which seems very strange, since her supervisor is not an ergonomics
22 specialist, and had in fact done nothing to facilitate Plaintiff obtaining the ergonomic items up to that point),
23 and that after that happened, an appointment would be scheduled within two to three weeks. Cristina
24 Sarabia further stated that, once the Occupational Safety and Health Division determined what ergonomic
25 items Plaintiff required, the Human Resources Department would work with Plaintiff to get the
26 recommended equipment to her "promptly." Plaintiff immediately submitted her requests for an ergonomic
27 chair and an ergonomic evaluation to the Occupational Safety and Health Division of Defendant CITY's
28 Personnel Department, as directed by Cristina Sarabia.

1 46. An ergonomic evaluation of Plaintiff's workstation was conducted on February 1, 2016. On
2 February 16, 2016, Daniela Zaccaro, Ergonomist with the Occupational Safety and Health Division, issued
3 a report in which she listed the equipment which Plaintiff required. This included a chair with a tailbone
4 cut-out, a document holder, a monitor arm, and an adjustable footstool. The report provided:

5 **The requesting department supervisor or referring agent is responsible**
6 **for addressing and carrying out the recommendations in this report.**
7 **This includes ordering, purchasing, and installing equipment as well as**
8 **making arrangements for recommended modifications to the**
 workstation. For City owned buildings, General Services Division can
 install some equipment. . . .

9 [Emphasis added.] Plaintiff's department supervisor was Defendant BRENTÉ.

10 47. Also on February 16, 2016, Daniela Zaccaro sent an email to Defendant BRENTÉ, Wanda
11 Hudson, and Plaintiff, in which she provided information on possible vendors, and stated:

12 **The requesting department supervisor or referring agent is responsible**
13 **for addressing and carrying out the recommendations in this report.**
14 **This includes ordering, purchasing, and installing equipment as well as**
15 **making arrangements for recommended modifications to the**
 workstation. For City owned buildings, General Services Division can
 install some equipment. . . .

16 [Emphasis added.] By this time it had been about six weeks since Plaintiff submitted her most recent
17 request for an ergonomic chair and an ergonomic evaluation.⁷

18 48. On February 29, 2016, Plaintiff had additional injections of steroids, bilaterally at the L4-S1
19 level.

20 49. On her anniversary date in March 2016, Plaintiff should have been promoted to Deputy City
21 Attorney IV, Step F, but she was not, since she had never even been promoted to the Deputy City Attorney
22 IV position. (She only received her small anniversary step, which is virtually automatic.) Instead, Plaintiff
23 was stuck in the Deputy City Attorney III, Step G, position, where she had been since March 23, 2007. This
24 failure to promote Plaintiff was a direct result of her sex and physical disability. Plaintiff alleges on
25 information and belief that male, non-disabled attorneys with less experience, who were performing
26 substantially similar or even less complex and less demanding work, were promoted to ranks of Deputy City

27 ⁷Plaintiff's original prescription for an ergonomic chair and request for an evaluation for an
28 ergonomic work station was in early 2011.

1 Attorney IV, Step F, or higher.

2 50. In March 2016, Plaintiff began to have a different medical problem. She had been having
3 extremely heavy menstrual periods for years, to the point where she had become anemic in 2012, and
4 underwent an endometrial biopsy, after which she was diagnosed as having a fibroid uterus. The condition
5 worsened, and she saw her gynecologist (Reza Askari, M.D.) on Friday, March 11, 2016. Plaintiff's
6 hemoglobin was dangerously low because she was bleeding so much, and Dr. Askari admitted Plaintiff to
7 the hospital that day, and she began taking FMLA/CFRA leave on that day – March 11, 2016. Plaintiff was
8 given four units of whole blood, and was kept in the hospital over the weekend. She was released on
9 Monday, March 14, 2016. On Thursday, March 17, 2016, Plaintiff began hemorrhaging and was rushed
10 to the hospital. On March 18, 2016, Plaintiff underwent an emergency hysterectomy at Providence Little
11 Company of Mary Medical Center in San Pedro. Before she went into surgery, Plaintiff contacted
12 Defendant BRENTÉ, Cristina Sarabia, and Wanda Hudson, and advised all of them that she was having
13 emergency surgery, and would need to take FMLA/CFRA leave for an unknown amount of time. Plaintiff
14 also emailed Kellie Tran (Payroll and Special Funds Administrator) and told her she was having an
15 emergency hysterectomy, and that she had already notified Defendant BRENTÉ. Kellie Tran emailed
16 Cristina Sarabia and Wanda Hudson with the information the same day.

17 51. On March 24, 2016, Cristina Sarabia, Human Resources Director, sent Plaintiff a memo,
18 advising her that her FMLA/CFRA leave was approved from March 18, 2016 through a date not yet
19 determined. Cristina Sarabia also stated in the March 24, 2016 memo: "During your leave, the Payroll
20 Section of the Los Angeles CITY ATTORNEY'S Office will input the appropriate payroll codes into our
21 office's payroll system (D-Time)."

22 52. On April 26, 2016, Plaintiff's physician completed a medical certification in which he stated
23 that Plaintiff would not be able to return to work until May 14, 2016, but that she was able to return to
24 "limited work from home" as of April 18, 2016. On or about April 30, 2016, Plaintiff's physician **twice**
25 faxed the Certification of Health Care Provider to Wanda Hudson of the Human Resources Department.
26 Despite that, and despite the written assurances in Cristina Sarabia's March 24, 2016 memo, on May 1,
27 2016, while Plaintiff was home recovering from surgery, Wanda Hudson sent Plaintiff an email telling her
28 she was being removed from payroll, effective May 2, 2016. Plaintiff had a substantial amount of accrued

1 sick leave at this time, which Wanda Hudson knew. The May 1, 2016 email from Wanda Hudson caused
2 added stress, which Plaintiff alleges contributed to the various physical problems she was having.

3 53. Unfortunately, Plaintiff's problems relating to her hysterectomy were far from over. She
4 experienced an abrupt and extremely severe menopause. Also around this time, she developed severe
5 hypothyroidism, most likely caused by an auto-immune disorder. Plaintiff became exhausted and developed
6 rashes and itchiness on her extremities. She was also damp and sweaty on her entire body all the time,
7 which greatly delayed the healing of her incision and caused her to develop a postoperative wound
8 infection. Plaintiff also had memory loss, difficulty concentrating, and was unable to think or reason at her
9 normal level. She also began requiring about 16 hours of sleep per night. Although Plaintiff had planned
10 to return to work on May 16, 2016, at least part-time, she was unable to because of the panoply of medical
11 issues she was experiencing. Plaintiff's FMLA/CFRA leave was therefore continued from May 16, 2016
12 through June 5, 2016.

13 54. Arranging for this FMLA/CFRA leave was an ordeal, because Wanda Hudson repeatedly
14 requested more detailed medical information (to which EMPLOYER Defendants were not entitled) from
15 Plaintiff's doctor, and threatened Plaintiff that if she did not provide further medical details, she would be
16 classified as "AWOL." Plaintiff's doctor had sent a letter dated May 24, 2016, stating that Plaintiff was
17 able to work from home for up to six hours per day, and that she could return to work on June 5, 2016. As
18 a result of Wanda Hudson's haranguing and threats, on May 26, 2016, Plaintiff's physician wrote another
19 letter, in which he stated:

20 Elizabeth Greenwood is unable to commute to and from the workplace. She
21 is able to work from home for up to six hours a day. As she heals she is able
22 to go out for short outings, but she is unable to be in an office environment
23 for an extended period of time. This restriction is currently until June 5,
2016 and will be reviewed with Ms. Greenwood to see if further restrictions
are necessary to maintain and improve her health as she recovers.

24 55. Plaintiff finally returned to work at the office on June 6, 2016. Plaintiff had voluntarily been
25 doing some work from home starting in mid-April 2016, but was not paid for this time.⁸

26
27 ⁸Although EMPLOYER Defendants had authorized Plaintiff to work from home three hours per day
28 from May 3, 2016 through May 14, 2016, Defendant BRENTÉ never assigned Plaintiff any work during this
period. However, Plaintiff's secretary would call from time to time and advise Plaintiff of deadlines and

1 56. When Plaintiff returned to work at the office on June 6, 2016, she thought that surely by this
2 time, her office would be set up with the new ergonomic chair and the ergonomic equipment which the
3 Occupational Safety and Health Division had recommended four months earlier, in February 2016.
4 Unfortunately, even though Plaintiff had submitted her most recent request for an ergonomic chair and
5 another for an ergonomic analysis of her office on January 5, 2016, neither the chair nor any of the other
6 equipment had arrived. Therefore, in July 2016, Plaintiff emailed Wanda Hudson in the Human Resources
7 Department about the fact that five months had passed since she had requested the ergonomic chair and an
8 ergonomic analysis of her office, and she had still not received any of her ergonomic furnishings or
9 equipment. About a week later, several boxes arrived in Plaintiff's office, but no one ever arrived to set
10 up or install the items. According to the February 16, 2016 report from Daniela Zaccaro, Ergonomist with
11 the Occupational Safety and Health Division, and the February 16, 2016 email which Daniela Zaccaro sent
12 to Defendant BRENTE, the requesting department supervisor (Defendant BRENTE) should have made
13 arrangements for the equipment to be set up and installed, but he never did so. He did not even manage to
14 get anyone to open the boxes to inventory what had arrived.

15 57. Plaintiff spoke repeatedly with Defendant BRENTE about her back pain and about the
16 symptoms she was having relating to her abrupt menopause, her hormone deficiency, her auto-immune
17 disorder⁹, and her hypothyroidism, including having difficulty thinking and concentrating. Plaintiff
18 described to Defendant BRENTE the things she was doing to try to cope, and kept him updated on her
19 various doctor visits and diagnoses. When she had to be out of the office for medical procedures and
20 appointments, she kept Defendant BRENTE and other staff updated regarding due dates, deadlines, etc. on
21 the cases she was assigned. These conversations occurred from July 2016 through February 2017.

22 58. From July 2016 thorough February 2017, Plaintiff complained repeatedly to Defendant
23 _____
24 due dates on Plaintiff's cases (which had not been re-assigned during Plaintiff's FMLA leave), and Plaintiff
25 would prepare whatever documents or take whatever action was required to prevent the case from being
26 compromised.

27 ⁹Around this time, Plaintiff was diagnosed as having an unspecified auto-immune disorder. She
28 spent about a year trying to get a formal diagnosis concerning which auto-immune disorder she had. She
saw an endocrinologist and submitted to numerous tests, but the auto-immune disorder was never formally
specified.

1 BRENTE about her lumbar spine pain, and about the fact that her ergonomic equipment and furniture were
2 still in boxes in her office (assuming that is actually what the boxes contained). As far as Plaintiff is aware,
3 Defendant BRENTE did nothing to even arrange for the items to be un-boxed so someone could inventory
4 them – let alone arrange to get them set up and installed.

5 59. Because of the complete failure by EMPLOYER Defendants to accommodate Plaintiff's
6 physical disability, her pain became worse and worse. She was forced to take 34 hours of sick leave in
7 October 2016, then 50 hours of sick leave in November 2016, then 134 hours of sick leave in January 2017.
8 In January 2017, Plaintiff was prescribed steroids, Norco, Flexeril, Ketorolac injections, Tramadol
9 injections, and a Lidocaine patch for her back pain. Despite all these medications, Plaintiff was
10 experiencing constant back pain, and was still attempting to deal with the various extreme menopause
11 symptoms (extreme hormone imbalances) she was having. On January 17, 2017, Dr. Proano gave Plaintiff
12 a prescription for a stand-up desk. Later that day, Plaintiff gave this prescription to Wanda Hudson in the
13 Human Resources Department and to someone in the Occupational Safety and Health Division of the City
14 Personnel Department.

15 60. On January 18, 2017 and again on February 1, 2017, Plaintiff had selective nerve root blocks
16 at the L5 level and a lumbar epidural steroid injection at the L5-S1 level. In addition to the severe back
17 pain, Plaintiff was still suffering from the effects of the emergency hysterectomy and abrupt entry into
18 menopause causing an extreme hormone imbalance, as well as the auto-immune disorder and
19 hypothyroidism. Chief among the side effects was the need for Plaintiff to sleep about 16 hours per night.

20 61. Plaintiff sent an email to Daniela Zaccaro, Ergonomist, Personnel Department, Occupational
21 Safety and Health Division, and they set up a few appointments to meet, but on each of the appointment
22 days Plaintiff was unable to come to work, because of both the excruciating pain in her lower back, and
23 because of the hormone deficiencies she was dealing with, and which her doctors were still attempting to
24 stabilize.

25 62. On January 22, 2017, Plaintiff received a change (**not** a promotion) from Deputy City
26 Attorney III, Step G, to Deputy City Attorney III, Step 13, in order to convert to the new salary grade
27 system.

28 63. On her anniversary date in March 2017, Plaintiff should have been promoted to Deputy City

1 Attorney IV, Step 10, but she was not, since she had never even been promoted to the Deputy City Attorney
2 IV position. Instead, she received only a small bump from Deputy City Attorney III, Step 13, to Deputy
3 City Attorney III, Step 14. This failure to promote Plaintiff was a direct result of her sex, her physical
4 disabilities, for taking FMLA/CFRA leave in 2016, and for complaining about this discrimination to
5 Defendant BRENTÉ and to persons in the Human Resources Department. Plaintiff complained, among
6 other things, that a male employee with physical disabilities comparable to hers would not be treated so
7 callously. Plaintiff alleges on information and belief that male, non-disabled attorneys with less experience,
8 who were performing substantially similar or even less complex and less demanding work, were promoted
9 to ranks of Deputy City Attorney IV, Step 10, or higher.

10 64. In March 2017, as a result of the continued refusal of EMPLOYER Defendants to
11 accommodate Plaintiff's physical disability, and the exacerbation which was caused by that continued
12 refusal, Plaintiff was forced to take 24 hours of vacation and 16 hours of sick leave. In April 2017 she was
13 forced to take 46 hours of sick leave. In May 2017 she was forced to take 99 hours of sick leave. Plaintiff
14 complained to persons in the Human Resources Department that she was being discriminated against based
15 on her sex and physical disabilities by being forced to exhaust the vacation and sick leave which she had
16 worked for years to accrue, rather than being provided with the reasonable accommodations which would
17 enable her to work. Plaintiff asserted that a male employee with disabilities comparable to her disabilities
18 would not be treated so callously as she was being treated.

19 65. On June 12, 2017, Defendant BRENTÉ sent a memorandum to Human Resources,
20 describing the essential job functions of deputy city attorneys working in the Police Litigation Unit (which
21 is where Plaintiff had been assigned since June 2013). The essential job duties included functions which
22 required a substantial amount of sitting (or standing) at a desk (although no time estimate was provided),
23 and which also required traveling to court and to depositions, carrying, wheeling, lifting, and maneuvering
24 boxes of trial documents, binders, and exhibits, "which are often voluminous." These essential job
25 functions were not consistent with what the job had consisted of in the past, since support staff, rather than
26 attorneys, took boxes of trial documents, binders, and exhibits to court and back, and did the "carrying,
27 wheeling, lifting, and maneuvering." (Since Plaintiff's secretary had retired in early 2017, and Plaintiff was
28 not even assigned a new secretary, the only assistance she received came from the clerks.) This job

1 description with additional “essential job duties” appears to have been designed to make Plaintiff
2 unqualified for her job, and to punish her for repeatedly requesting that she be treated fairly with regard to
3 promotions, and that she be provided with the reasonable accommodations to which she was legally
4 entitled.

5 66. On June 14, 2017, Plaintiff had to miss some work to undergo more lumbar facet injections
6 in her lower back, bilaterally at the L4-S1 level. A week later, on June 21, 2017, Defendant BRENTE began
7 criticizing Plaintiff for missing work and not working from 8:30 a.m. to 5:00 p.m. Even though Plaintiff
8 had told Defendant BRENTE about her medical issues in detail (which legally she was not required to do),
9 and had explained to him the reasons why she had to take time off work for so many medical appointments,
10 and had to sleep 12 to 16 hours per night, making it very difficult to arrive at work by 8:30 a.m. and to work
11 for eight hours per day, Defendant BRENTE criticized Plaintiff for the various issues which he knew were
12 beyond her control because of her medical disabilities. (There was not even any business reason which
13 required Plaintiff to be physically at the office from 8:30 a.m. to 5:00 p.m.) As a supervisor, and as an
14 attorney, Defendant BRENTE surely knew he was required to reasonably accommodate Plaintiff’s
15 disabilities, and that he should certainly not be disciplining her because of her disabilities.

16 67. After the June 21, 2017 meeting with Defendant BRENTE, Plaintiff submitted a formal
17 request for reasonable accommodations to the Human Resources Department. The meeting regarding
18 Plaintiff’s requested reasonable accommodations took place on July 11, 2017, with David Trujillo (HR
19 Analyst) and Margaret Shikibu, both of the Human Resources Department. The accommodations Plaintiff
20 was requesting related to her extreme menopause-related issues (extreme hormone imbalances),
21 hypothyroidism, and un-categorized auto-immune disorder, which were requiring her to sleep 12 to 16
22 hours per night, preventing her from getting to work at 8:30 a.m. on some days, and preventing her from
23 working eight hours per day on some days.

24 68. On July 11, 2017, the Human Resources Department granted Plaintiff a so-called temporary
25 accommodation by changing her schedule to 10:00 a.m. to 6:00 p.m. This was not sufficient, however,
26 since Plaintiff had to sleep about 12 to 16 hours per night, and work eight hours per day, which adds up to
27 20 to 24 hours per day, leaving Plaintiff no time to commute back and forth from San Pedro to downtown,
28 no time to get ready in the morning and eat breakfast, and no time to eat a real dinner in the evening. The

1 so-called accommodation meant that in order to get eight hours in at work, Plaintiff was forced to work
2 through her lunch break, eating at her desk. While Plaintiff would normally have taken the opportunity to
3 walk around and stretch during her lunch break, instead, she was forced to remain in place at her desk.
4 Plaintiff was also forced to work in her office which **still** did not have the ergonomic improvements which
5 had been requested first in 2011, and then again in January 2016, and some of which had been in unopened
6 boxes in her office since July 2016 (at least, Plaintiff assumed that is what was in the boxes).

7 69. Plaintiff explained all this to Human Resources Department personnel, but her words fell
8 on deaf ears. From July 23 through August 5, 2017, Plaintiff was forced to use 82 hours of sick leave and
9 38.5 hours of vacation as a direct result of the refusal of EMPLOYER Defendants to accommodate her
10 disabilities. Plaintiff again complained to persons in the Human Resources Department that she was being
11 discriminated against based on her sex and physical disabilities by being forced to exhaust the vacation and
12 sick leave which she had worked for years to accrue, rather than being provided with the reasonable
13 accommodations which would enable her to work. Plaintiff asserted that a male employee with physical
14 disabilities comparable to hers would not be treated so callously as she was being treated.

15 70. While Plaintiff was on sick leave, Defendant BRENTTE failed to assign another attorney to
16 cover Plaintiff's cases. As a result, some filing deadlines were missed. When Plaintiff was informed of
17 filing deadlines, she would download the necessary documents from PACER and draft motions and other
18 documents from home **while she was using her accrued sick leave.** (Plaintiff sometimes did not know
19 about filing deadlines, however, since she had still not been assigned a secretary ever since her secretary
20 retired in early 2017.)

21 71. The so-called temporary accommodation expired on July 28, 2017, because EMPLOYER
22 Defendants required that Plaintiff submit documentation regarding her auto-immune disorder and
23 hypothyroidism from her doctor (and in fact repeatedly and illegally requested detailed medical information
24 to which EMPLOYER Defendants were not entitled), and Plaintiff could not get an appointment with the
25 endocrinologist who was on Defendant CITY's health insurance plan until August 2017. In August 2017,
26 Plaintiff's hormone replacement medication was doubled. Although Plaintiff was still suffering from other
27 symptoms of extreme hormone deficiency, as well as with the symptoms resulting from her hypothyroidism
28 and her auto-immune disorder, the doubling of her hormone replacement medication allowed her to

1 decrease her sleep time from 12 to 16 hours per night, down to 10 hours per night. While this was still a
2 long time to sleep, it was a definite improvement.

3 72. By August 2017, it had been over six years since Plaintiff first started requesting an
4 ergonomic evaluation, one and one-half years since it was finally performed, over a year since the boxes,
5 presumably containing ergonomic items, were delivered to her office (but never even opened), and seven
6 months since Plaintiff's doctor prescribed a stand-up desk. Plaintiff had spent hours talking to and emailing
7 with the Human Resources Department, the Occupational Safety and Health Division of Defendant CITY's
8 Personnel Department, and her supervisor, Defendant BRENTE, but absolutely nothing had been
9 accomplished as far as any reasonable accommodations for Plaintiff's lumbar disability. The pain in her
10 back was increasing to the point where she was in constant pain, had frequent muscle spasms, and was often
11 unable to drive herself to and from work. She was taking so much pain medication it was adding to the
12 fatigue she was already battling, and made it even more difficult for her to concentrate at work. Therefore,
13 on August 14, 2017, Plaintiff submitted a workers' compensation Employee's Report of Injury/Illness to
14 the Human Resources Department within Defendant CITY ATTORNEY'S OFFICE and went out on sick
15 leave.

16 73. From August 14 through November 2017, Plaintiff constantly asked her supervisor,
17 Defendant BRENTE, about her workers' compensation claim, to see when she would receive information
18 regarding her workers' compensation medical leave, and Defendant BRENTE repeatedly told her to
19 continue using her accrued sick leave whenever she was in too much pain to come to work. He also told
20 Plaintiff that Human Resources told him a workers' compensation claim had not yet been opened for her,
21 even though she had submitted her claim on August 14. Plaintiff had no reason not to believe him at the
22 time.

23 74. Even though she was suffering extreme back pain, from September 26 through 29, 2017,
24 Plaintiff conducted the trial in *Porter v. City of Los Angeles*, in which she prevailed. This was a case in
25 which the settlement demand was over \$1 million, plus attorneys' fees and costs. (Plaintiff was also very
26 ill with the flu and was running a fever on September 27, but continued with the trial notwithstanding how
27 ill she felt, because she feared she would be disciplined by her supervisor if she requested a one-day
28 continuance.) Plaintiff had to have a friend drive her back and forth to court, because driving greatly

1 exacerbated her back pain, and because she also needed the commute time for sleeping.

2 75. On October 3, 2017, shortly after completing the trial, Plaintiff saw Dr. Proano again, and
3 had additional medial nerve branch blocks performed on her lumbar spine.

4 76. Also in approximately October 2017, Defendant BRENTE asked Plaintiff why others in the
5 Police Litigation Unit were able to get ergonomic equipment with ease, and she had so much trouble. (For
6 example, a male attorney named Geoff Plowden had requested a reasonable accommodation, which he had
7 promptly received.) This was a harassing comment, since ergonomic equipment had been delivered to
8 Plaintiff's office in July 2016 and, as the requesting department supervisor, Defendant BRENTE was the
9 very person who should have made arrangements for the equipment to be set up and installed. Incredibly,
10 Defendant BRENTE suggested to Plaintiff that she install the ergonomic equipment herself which, among
11 other things, would have required drilling a large hole in the desk to attach the monitor arm. Defendant
12 BRENTE seemed to take enjoyment from the fact that Plaintiff was enduring intense pain, while the
13 ergonomic equipment sat in Plaintiff's office, still in boxes, taunting her. Plaintiff told Defendant BRENTE
14 he was harassing and discriminating against her based on her sex and physical disabilities by forcing her
15 to exhaust the vacation and sick leave which she had worked for years to accrue, since obviously it was
16 possible for reasonable accommodations to be provided to male employees in the department – just not to
17 females.

18 77. Because Defendant BRENTE never assigned anyone to cover Plaintiff's cases when she was
19 out on extended sick leave, Plaintiff returned to work as much as she could, on days the pain was not
20 completely debilitating. She was unable to drive, however, so she could only go to work when she could
21 get a driver, and could only work for a few hours at a time. As a result, she was required to take 76.6 hours
22 of vacation, 9 hours of 100% sick leave, and 27 hours of 75% sick leave during October 2017.

23 78. On November 1, 2017, Dr. Proano determined that Plaintiff was totally temporarily disabled.
24 Despite that, Plaintiff attempted to work during November 2017, and managed to do so for about the first
25 week of November 2017, even though the pain was almost unbearable.

26 79. Despite the fact that: i) Plaintiff had been on FMLA/CFRA leave from approximately March
27 11 through June 5, 2010 for her spinal surgery, ii) Plaintiff had been on FMLA/CFRA leave from March
28 11, 2016 through June 5, 2016 for her endometriosis and fibroid uterus, and then for the emergency

1 hysterectomy and the complications relating to that surgery, iii) Plaintiff had communicated constantly with
2 Defendant BRENTE regarding her various physical disabilities, and had answered many more questions
3 regarding the details of her physical disabilities and serious health conditions than she was legally required
4 to, iv) Plaintiff had been attempting to get ergonomic furniture which would at least lessen her back pain
5 **since early 2011**, v) Defendant BRENTE was the person responsible for having the ergonomic items
6 installed but the items had been sitting in boxes in Plaintiff's office since July 2016, vi) Plaintiff had
7 submitted a formal request for reasonable accommodations to Human Resources and met with Human
8 Resources about this, and vii) Plaintiff had filed a workers' compensation claim on August 14, 2017, on
9 November 7, 2017, Defendant BRENTE saw fit to issue a formal Notice to Correct Deficiencies to Plaintiff,
10 which dwelled **solely** on difficulties she was having at work due to her physical disabilities.¹⁰

11 80. On November 8, 2017, when Plaintiff was literally at the doctor for the purpose of obtaining
12 a note which Vivienne Swanigan (Managing Assistant City Attorney and Supervising Attorney of the Labor
13 Relations Division) had said was required, Plaintiff received a call, ordering her back to the office to receive
14 her Notice to Correct Deficiencies. The meeting was attended by Defendant BRENTE, Plaintiff, union
15 representative Oscar Winslow, and a woman (name unknown) from the Personnel or Human Resources
16 Department. During this meeting, Plaintiff described in detail all the health issues which were making it
17 difficult for her to work regular hours, including the health issues she was having related to her severe
18 menopause (severe hormone imbalance), her auto-immune disorder, her hypothyroidism, and her lumbar
19 spine disability. Plaintiff explained that much of the time when she was late to work, it was because she
20 required so much sleep because of the extreme menopause-related issues (extreme hormone imbalances),
21 hypothyroidism, and un-categorized auto-immune disorder, or because she was groggy due to having been
22 forced to take pain medication for her lumbar spine disability. She again requested reasonable
23 accommodations for all her physical disabilities. Rather than discuss what reasonable accommodations
24 might be possible, Defendant BRENTE said to Plaintiff, right in front of Oscar Winslow and the woman
25 from Personnel, "We all know the workers' comp claim is bullshit." This was an accusation of Plaintiff

26
27 ¹⁰According to the Notice to Correct, Defendant BRENTE accused Plaintiff of having unsatisfactory
28 job performance from June 21, 2017 through September 29, 2017 – the very day Plaintiff received a
favorable jury verdict in *Porter v. City of Los Angeles*.

1 committing an illegal act (workers' compensation fraud).¹¹ Plaintiff pointed out that the Notice to Correct
2 Deficiencies dwelled **solely** on difficulties she was having at work due to her physical disabilities, and for
3 which she had been requesting reasonable accommodations for seven years, and complained that this
4 constituted harassment and discrimination based on her physical disabilities. Plaintiff also complained she
5 was being discriminated against and harassed based on her sex because she did not believe male employees
6 were being disciplined for having physical disabilities, and of course male employees did not have
7 menopause issues. Plaintiff also complained she was being punished for using accrued sick leave, which
8 she only had to use because Defendants refused to provide the reasonable accommodations she required.

9 81. At this point, Plaintiff became suspicious regarding the lack of any action on her workers'
10 compensation claim, so she began to investigate. On November 8, 2017, she finally got in contact with Lisa
11 Herron, ACME Claims Adjuster, who told Plaintiff her workers' compensation claim had been denied
12 because Defendant BRENTE told Ms. Herron Plaintiff was not at work, and he did not know how to reach
13 her! This was not true, since Defendant BRENTE knew how to reach Plaintiff by phone, text message, or
14 email.

15 82. By November 26, 2017, Plaintiff was in such severe back pain that she had to use accrued
16 vacation and sick leave through January 20, 2018. Plaintiff used various types of accrued leave during this
17 period. While Plaintiff was on sick leave, Defendant BRENTE again failed to assign sufficient personnel
18 to cover Plaintiff's cases. Plaintiff complained to David Trujillo that she was being discriminated against
19 based on her sex and physical disabilities by being forced to exhaust the vacation and sick leave which she
20 had worked for years to accrue. Plaintiff asserted that a male employee with physical disabilities
21 comparable to hers would not be treated so callously as she was being treated. Plaintiff also complained
22 to David Trujillo that Defendant BRENTE was harassing and discriminating against her by failing to assign
23 sufficient personnel to cover her cases while she was on sick leave, which caused deadlines and due dates
24 to be missed, for which she was being blamed. Plaintiff did not work voluntarily from home during this
25
26
27

28 ¹¹Plaintiff actually prevailed in that workers' compensation claim, so apparently it was not "bullshit."

1 period of vacation and sick leave.¹²

2 83. On December 7, 2017, Plaintiff finally learned from David Trujillo (of the Human Resources
3 Department) that she could reopen her workers' compensation claim by completing and returning some
4 medical release forms, and submitting to an examination by a Qualified Medical Examiner. She returned
5 the signed forms and began arranging for the examination.

6 84. On December 13 and 20, 2017, Plaintiff attempted to undergo a radiofrequency ablation
7 procedure and a facet rhizotomy, but had a bad reaction to the anesthesia, so the procedures could not be
8 completed on those dates. As a result of her continuing back pain, on December 20, 2017, Plaintiff's doctor
9 wrote a note stating Plaintiff was unable to work from November 16, 2017 through January 15, 2018. She
10 was finally able to have the radiofrequency ablation of the right L3-5 medial branch nerves on January 22,
11 2018.

12 85. Plaintiff had hoped to return to work on January 21, 2018, but was unfortunately unable to
13 return to working full-time on that date. She therefore took intermittent FMLA/CFRA leave from January
14 21, 2018 through February 11, 2018. Plaintiff used accrued vacation and sick leave during this period.
15 Once again, Defendant BRENTE failed to assign sufficient personnel to cover Plaintiff's cases, and once
16 again Plaintiff complained to Defendant BRENTE that this constituted discrimination and harassment based
17 on her physical disabilities and sex, and for taking FMLA/CFRA leave.

18 86. On January 29, 2018, Plaintiff had her annual medical examination at HealthCare Partners.
19 Among other things, she was diagnosed as having anxiety disorder, depression, hypothyroidism, insomnia,
20 sciatica, vitamin D deficiency, difficulty concentrating, elevated blood pressure, elevated liver enzymes,
21 greater trochanteric bursitis, menopause syndrome, muscle spasms, and neurodermatitis. She was taking
22 numerous prescription medications for these conditions. Plaintiff was also treating with her gynecologist
23 (who was not part of HealthCare Partners), and was being prescribed hormone replacement and other
24 medications related to her menopause syndrome by the gynecologist.

25 87. On February 7, 2018, Plaintiff's physician (Dr. Proano) wrote a note indicating she was able
26

27 ¹²Plaintiff was afraid she would be criticized for voluntarily working during her leave since, on
28 November 7, 2017, Defendant BRENTE had issued Plaintiff a formal Notice to Correct Deficiencies which
dwelled **solely** on difficulties she was having at work due to her physical disabilities.

1 to return to work on February 12, 2018, but only to “light” work duties, and only with the following
2 restrictions/accommodations: “no bending, stooping, lifting, sit no more than 1 hour, standing no more than
3 1 hour.”

4 88. Plaintiff did return to work, full-time, on February 12, 2018. On that day, she submitted the
5 February 7, 2018 note from Dr. Proano regarding her restrictions, along with the three ergonomic
6 prescriptions from Dr. Proano – one for an ergonomic keyboard drawer, one for an ergonomic chair, and
7 one for a stand-up desk – to the Human Resources Department. The Human Resources Department told
8 Plaintiff she needed to have **yet another** ergonomics evaluation. It had been **two years** since Plaintiff had
9 the first ergonomic evaluation, when the Occupational Safety and Health Division had determined that she
10 needed a chair with a tailbone cut-out, a document holder, a monitor arm, and an adjustable footstool.
11 (Those items had never been delivered, or were still in boxes in Plaintiff’s office, needing to be un-boxed
12 and installed.) It had also been **over two years** since Plaintiff’s doctor initially prescribed an ergonomic
13 chair, and **one year** since her doctor had initially prescribed a stand-up desk.

14 89. Amazingly, David Trujillo told Plaintiff it could be **months** before they would be able to
15 get her the ergonomic evaluation. Plaintiff complained to David Trujillo that there were still boxes of
16 ergonomic equipment in her office which had never been opened and installed. She told David Trujillo that
17 her back would start aching within an hour of her sitting at her desk, and she was afraid sitting in that chair
18 would seriously exacerbate her spinal disability. David Trujillo did not seem interested in getting the
19 ergonomic equipment installed, and said they might have to put Plaintiff on administrative leave until they
20 could conduct yet another ergonomic evaluation and get the new equipment in place.

21 90. On February 14, 2018, in what can only be viewed as an outright refusal to accommodate
22 Plaintiff’s disability, the Human Resources Department sent Plaintiff an email stating that she would have
23 to completely re-start the ergonomic evaluation process. Plaintiff reminded Human Resources that she had
24 originally started requesting an ergonomic evaluation process in early 2011, the ergonomic evaluation had
25 finally been performed on February 1, 2016, and, although the boxed ergonomic items were finally
26 delivered to her office in July 2016, none of the equipment had been set up.

27 91. Also on February 14, 2018, Plaintiff met with David Trujillo to discuss accommodation of
28 the work restrictions which were listed on the February 7, 2018 note from her doctor (no bending, stooping,

1 or lifting; no sitting for more than an hour at a time and no standing for more than an hour at a time).
2 During this meeting, Plaintiff complained to David Trujillo that Defendant BRENTE and EMPLOYER
3 Defendants were harassing and discriminating against her because of taking FMLA/CFRA leave, and based
4 on her physical disabilities and her sex, for the same reasons as discussed above. On February 23, 2018,
5 David Trujillo sent an email in which he stated that Plaintiff's request was with "Personnel to see if they
6 had equipment readily available. If not available, she would be placed on the list for them to order."

7 92. On February 27, 2018, Plaintiff drove to Pasadena, where she conducted a six-hour
8 deposition. The combination of driving to Pasadena, sitting for six hours, then driving back to San Pedro
9 greatly exacerbated Plaintiff's back injury. She could not return to work because her ergonomic furniture
10 and equipment had still not been installed. She attempted to work from home (from February 28, 2018
11 through March 8, 2018), but this reasonable accommodation was later denied her.

12 93. Plaintiff saw Dr. Askari again on March 7, 2018, and Dr. Askari noted complications of
13 menopause, the presence of thyroid issues, and the presence of an unknown auto-immune disorder.

14 94. On March 8, 2018, Defendant BRENTE sent Plaintiff an email in which he admonished her
15 for not keeping up with her work while she was in excruciating pain and trying to work from home. Since
16 it was clear that EMPLOYER Defendants were not going to provide Plaintiff with ergonomic furnishings
17 and equipment, and since the reasonable accommodation of working from home was being denied her,
18 Plaintiff gave up trying to work from home and, on March 12, 2018, notified Human Resources of her need
19 to take FMLA/CFRA leave, beginning (retroactively) on March 8, 2018, and ending on April 9, 2018.

20 95. The very next day (on March 13, 2018), her anniversary date step was denied/withheld for
21 one year – something which is virtually unheard of. Since she should have already been a Deputy City
22 Attorney IV, Step 10, at this point, she should have been promoted to Deputy City Attorney IV, Step 11,
23 but was instead trapped at the Deputy City Attorney III, Step 14, level. This refusal to promote Plaintiff
24 was a direct result of her sex, her physical disabilities, her repeated requests for accommodation, her
25 repeated requests for an interactive dialogue/process, and for her taking FMLA/CFRA leave. Plaintiff
26 alleges on information and belief that male, non-disabled attorneys with less experience who were
27 performing substantially similar or even less complex and less demanding work, were promoted to ranks
28 of Deputy City Attorney IV, Step 11, or higher.

1 96. Also on March 13, 2018, Plaintiff was examined by Qualified Medical Examiner Leon
2 Brooks, M.D. After reviewing medical records and examining Plaintiff, Dr. Brooks determined that
3 Plaintiff was “temporarily totally disabled.” He also ordered that Plaintiff obtain an MRI of her spine, and
4 electrodiagnostic studies.

5 97. On March 14, 2018, Plaintiff’s request for FMLA/CFRA leave was approved for the period
6 March 8 through April 9, 2018. Plaintiff was required to use approximately 168 hours of accrued (75%)
7 sick leave during this period. Plaintiff again complained to David Trujillo that she was being discriminated
8 against for taking FMLA/CFRA leave and also because of her sex and physical disabilities, by being forced
9 to exhaust the vacation and sick leave which she had worked for years to accrue. Plaintiff asserted that a
10 male employee with physical disabilities comparable to hers would not be treated so callously as she was
11 being treated.

12 98. Plaintiff had hoped to return to work on April 10, 2018, as had been planned, but was
13 physically unable to do so. (She attended a LACERS meeting, but was in so much pain afterward, she had
14 to go home.) Plaintiff missed work on April 11, 2018 due to a death in the family. She returned to work
15 on April 13, 2018. On April 17, 2018, Plaintiff obtained the MRI which had been ordered by Dr. Brooks
16 (QME). By April 25, 2018, Plaintiff was in so much pain she could not work. She therefore requested to
17 take a FMLA/CFRA leave of absence, but months went by without her receiving a response.¹³ On May 8,
18 2018, Plaintiff obtained the electrodiagnostic studies which had been ordered by Dr. Brooks.

19 99. On June 8, 2018, David Trujillo told Plaintiff that her ergonomic equipment (which had first
20 been prescribed by Plaintiff’s doctor **seven years** earlier) had been “ordered,” and that Human Resources
21 was awaiting shipment. David Trujillo gave no indication regarding when the equipment was expected to
22 arrive.

23 100. Amazingly, the very next day (June 9, 2018), Plaintiff’s health benefits were terminated
24 without notice, without a response to her April 25, 2018 request to take FMLA/CFRA leave, and without
25

26 ¹³Eventually, on September 21, 2018, Human Resources sent a letter stating that Plaintiff was being
27 granted a “personal medical leave of absence . . . as a reasonable accommodation for the continuous period
28 of April 25, 2018 through October 16, 2018.” Payroll records indicate this leave was classified as
FMLA/CFRA leave from April 25, 2018 through June 9, 2018.

1 the ergonomic equipment being installed in her office, which would have allowed her to return to work.
2 Plaintiff received no notice of the termination of her health insurance benefits from EMPLOYER
3 Defendants. Rather, she learned of the termination of benefits from one of her medical providers.
4 EMPLOYER Defendants terminated the health insurance of Plaintiff, who they knew had numerous health
5 issues, without even giving her notice.

6 101. Then on June 12, 2018, even though Plaintiff had filed a workers' compensation claim on
7 August 14, 2017, and had been declared "temporarily totally disabled" by Dr. Brooks (QME) on March 13,
8 2018, David Trujillo notified Plaintiff that she was out of vacation and sick leave and had no more
9 FMLA/CFRA time, so she would need to apply for short-term disability insurance. On June 13, 2018,
10 Plaintiff asked David Trujillo to send her the paperwork which was necessary to apply for disability
11 insurance. The application paperwork was provided, and Plaintiff applied for disability insurance on June
12 13, 2018 with Standard Insurance Company (under the City of Los Angeles group policy). Standard
13 Insurance indicated it would respond by August 3, 2018.

14 102. On July 10, 2018, Dr. Brooks (the QME) issued a supplemental report in which he stated
15 the following findings:

- 16 – Plaintiff should be precluded from repeated bending and stooping, lifting of weight in excess
17 of 15 pounds, prolonged sitting or prolonged standing.
- 18 – Plaintiff will not be able to return back to her prior position in view of the physical
19 requirements. He therefore considers her to be a qualified injured worker.
- 20 – He believes that 60% of Plaintiff's present impairment is related to her present injury of
21 August 14, 2017 and 40% is related to her condition prior to the specific injury of August
22 14, 2017.
- 23 – Plaintiff remains with 8% impairment of the whole person per DRE lumbar category 2 of
24 Table 15-3 page 383 of the AMA Guidelines Fifth Edition.

25 103. On July 13, 2018, David Trujillo sent Plaintiff an email in which he wrote:

26 Your department has changed your status to Part Time Intermittent and that
27 is what has cancelled your benefits.

28 This status automatically cancels benefits by the payroll file provided to our
TPA.

1 Amazingly, although EMPLOYER Defendants had removed Plaintiff from payroll and terminated her
2 health insurance benefits on June 9, 2018, they did not bother to tell Plaintiff until over a month later, on
3 July 13, 2018.

4 104. When Plaintiff did not hear anything by August 3, 2018, she contacted Standard Insurance
5 Company and was told her claim was “on hold” because Standard Insurance was waiting for information
6 from EMPLOYER Defendants. Standard Insurance said it had sent Defendant CITY a follow-up, but had
7 still not heard back. Therefore, on August 3, 2018, Plaintiff wrote to David Trujillo, asking that he inquire
8 into the status of her disability insurance application.

9 105. Plaintiff’s disability insurance claim was eventually processed, and was denied by Standard
10 Insurance on September 17, 2018; she is currently in the process of appealing. No progress was made on
11 Plaintiff’s workers’ compensation claim during this time.

12 106. Plaintiff’s request for a medical leave of absence took **almost five months** – from April 25,
13 2018 to September 21, 2018 – to be granted, leaving Plaintiff in fear of her employment being terminated
14 due to her being unable to work as a result of her disabilities. Eventually, on September 21, 2018, Human
15 Resources sent a letter stating that Plaintiff was being granted a “personal medical leave of absence . . . as
16 a reasonable accommodation for the continuous period of April 25, 2018 through October 16, 2018.”
17 Payroll records indicate this leave was classified as FMLA/CFRA leave from April 25, 2018 through June
18 9, 2018, during which time 64 hours of Plaintiff’s accrued vacation and 437 hours of Plaintiff’s accrued sick
19 leave were used. The remainder of the leave time was unpaid. To term this a “personal medical leave of
20 absence . . . as a reasonable accommodation” is inaccurate, since the leave was FMLA/CFRA leave from
21 April 25, 2018 through June 9, 2018, and after that it was unpaid leave without health insurance. This was
22 therefore not a “reasonable accommodation.” A true accommodation would have been to actually install
23 the ergonomic equipment and furnishings which Plaintiff required, so she could be working, getting paid,
24 and receiving health insurance and other benefits of employment.

25 107. On October 15, 2018, Plaintiff’s attorneys sent a 36-page letter to Zna Portlock Houston,
26 Special Counsel Personnel Standards and Employee Engagement (Office of the Los Angeles City Attorney),
27 in which they requested a response by November 1, 2018. **To this date, no response has been provided.**

28 108. On October 16, 2018, Plaintiff submitted a complaint to EMPLOYER Defendants’ Office

1 of Discrimination Complaint Resolution. In that complaint, Plaintiff alleged discrimination based on
2 disability and sex, and for taking FMLA/CFRA leave, and further alleged she had been subjected to a
3 variety of harassing and discriminatory treatment, including several adverse employment actions.

4 109. On October 16, 2018, Plaintiff's physician wrote a note stating that she could return to work
5 with the following restrictions/accommodations: "no bending, stooping, standing for more than 1 hour.
6 Stand up desk and ergonomic chair [required]."

7 110. Plaintiff returned to work on October 17, 2018. When she arrived at her office, she
8 discovered that her desk had been set up with two monitors and a soft desk pad for standing (which were
9 both things she needed), but that the electric high-adjustable desk and electric high-adjustable chair which
10 she understood had been ordered, had still not arrived. Plaintiff had previously submitted a note which Dr.
11 Proano had written on February 7, 2018, indicating she could only perform "light" work duties, and only
12 with the following restrictions/accommodations: "**no** bending, stooping, **lifting**, sit no more than 1 hour,
13 standing no more than 1 hour." [Emphasis added.] EMPLOYER Defendants were aware of this because,
14 on February 14, 2018, Plaintiff met with David Trujillo to discuss accommodation of the work restrictions
15 which were identified in the February 7, 2018 note from her doctor (no bending, stooping, or lifting; no
16 sitting for more than an hour at a time and no standing for more than an hour at a time). Then, on July 10,
17 2018, Dr. Brooks (EMPLOYER Defendants' designated QME) stated: "Plaintiff should be precluded from
18 repeated bending and stooping, **lifting of weight in excess of 15 pounds**, prolonged sitting or prolonged
19 standing." EMPLOYER Defendants were therefore well aware that Plaintiff was unable to raise and lower
20 a stand-up desk and/or stand-up chair manually several times per day, and had a duty to provide Plaintiff
21 with the electric high-adjustable desk and electric high-adjustable chair which she required in order to be
22 able to perform her job.

23 111. On October 17, 2018, Plaintiff managed to work from 9:00 a.m. to 6:30 p.m., despite the
24 severe back pain she was experiencing. On October 18, Plaintiff again worked a full day – from 9:45 a.m.
25 to 7:00 p.m. On October 19, the pain was so bad when she awoke, she was not able to drive downtown
26 until after she had been up for a while and had taken more pain medication. She therefore worked from
27 11:45 a.m. to 5:45 p.m.

28 112. Unfortunately, as a result of pushing her body, and working without the benefit of the

1 ergonomic equipment she was supposed to have, Plaintiff experienced excruciating back pain for the next
2 three days, and was unable to report to work on Monday, October 22, 2018. Her attendance was very
3 sporadic the next couple weeks because of the back pain she was suffering due, at least in part, to the lack
4 of ergonomic furnishings and equipment.

5 113. Every day Plaintiff was late to work, or unable to go to work at all, she texted Defendant
6 BRENTÉ and advised him of her status. Sometimes he responded, but sometimes he did not. Plaintiff has
7 told Defendant BRENTÉ she still needs 10 hours of sleep per day. If she has back spasms, she needs to
8 take a pain pill, and take a hot shower. On mornings the pain is so severe that she has to take two pain pills,
9 then she cannot drive. In late October 2018, Plaintiff explained to Defendant BRENTÉ that she was unable
10 to obtain a new note from her doctor, because she was still without health insurance.

11 114. Plaintiff worked full days on October 30 and October 31, 2018. On October 30, 2018,
12 Plaintiff spoke with one of EMPLOYER Defendants' attorneys regarding her workers' compensation claim.
13 He told Plaintiff no decision had been made by the workers' compensation insurance carrier regarding the
14 claim she had submitted on August 14, 2017. Despite Dr. Brooks' July 10, 2018 findings, Plaintiff's
15 workers' compensation claim has still not been processed by EMPLOYER Defendants. This means the
16 payroll department has not credited back Plaintiff's sick leave and vacation accounts. Plaintiff has also not
17 been paid any money for her workers' compensation claim, and also has not even been paid for working
18 October 30 and 31, 2018.

19 115. On Thursday, November 1, 2018, Plaintiff became extremely ill, with a very high fever, and
20 was diagnosed as probable Viral Meningitis. Plaintiff's physician (Terry Ishihara, M.D.) wanted to admit
21 Plaintiff to the hospital, but she declined to go because of being without health insurance. Plaintiff could
22 not even have blood tests performed because of the lack of health insurance. Dr. Ishihara advised Plaintiff
23 that she would need to stay in bed for at least a week, and probably longer. On November 1, 2018, Plaintiff
24 advised both Defendant BRENTÉ and HR Analyst David Trujillo that she was sick, that she probably had
25 Viral Meningitis, and that her doctor had advised at least a week of bed rest.

26 116. On Monday, November 5, 2018, persons from the Police Litigation Unit started emailing
27 Plaintiff assignments to do at home. Not only was Plaintiff very ill, but she did not have any of the files
28 she would need in order to do the work she was being assigned anyway. Plaintiff notified both the Police

1 Litigation Unit and David Trujillo of these facts.

2 117. On November 8, 2018, Plaintiff learned that her health insurance had been reactivated.¹⁴
3 Plaintiff was still very ill at this time. Her fever was not as high as previously, but she was still suffering
4 from fever, headaches, chills, and severe vertigo. On November 20, Plaintiff's physician said it could take
5 up to two weeks for her to recover from what, at that point, had been diagnosed as Viral Meningitis.
6 Plaintiff's physician provided her with a note stating she could not return to work until December 3, 2018.

7 118. While Plaintiff was at the doctor on November 20, she had blood drawn for the purpose of
8 testing for typhus. On November 27, 2018, Plaintiff learned she had typhus (specifically, typhus fever
9 Group IgG, IgM). Typhus is a very serious disease, which can be fatal if left untreated. Typhus can cause
10 Viral Meningitis. Although typhus is highly treatable with antibiotics, Plaintiff could not go to the hospital
11 or even have blood tests until almost three weeks after her symptoms started, because her health insurance
12 had not yet been re-activated (even though she was eligible for re-activation starting October 27, 2018).

13 119. Plaintiff most likely contracted typhus at City Hall East. Typhus is transmitted by fleas and
14 is believed to have started in the homeless encampments in downtown Los Angeles. There has been a
15 typhus epidemic in downtown Los Angeles since about September 2018. The county designated a 279-acre
16 area bounded by Third, Seventh, Alameda, and Spring streets as the "Typhus Zone." Plaintiff's office is
17 only two blocks outside the Typhus Zone.

18 120. On November 29, 2018, Plaintiff sent an email to Defendant BRENT, copied to David
19 Trujillo, in which she wrote:

20 Given the fact there is a typhus outbreak in Downtown LA I would like to
21 file a workers' compensation claim. Would you please send me the
22 paperwork.

23 Thank you very much.

24 David Trujillo replied that he would have "Nancy send over the paperwork." Plaintiff submitted a workers'
25 compensation Employee's Report of Injury/Illness to the Human Resources Department within Defendant
26 CITY ATTORNEY'S OFFICE, relating to her typhus diagnosis, on December 1, 2018. In that document,

27 ¹⁴Plaintiff was eligible for health insurance starting October 27, 2018, but despite Plaintiff urging
28 EMPLOYER Defendants to hurry and get her insurance re-activated, Plaintiff's health insurance was not
actually re-activated until November 8, 2018.

1 Plaintiff wrote:

2 There is a typhus outbreak in downtown LA. Sometime the week of
3 10/16/18 while at my office I was bitten by one or more fleas. On November
4 1, 2018, I became violently ill. On 11/27/18, my primary care physician
 phoned me and informed me I tested positive for typhus.

5 Under “What can the City of Los Angeles do to help prevent similar accidents/incidents?” Plaintiff wrote
6 “Fumigate City Hall East for fleas-immediately. This is a horrible condition.”

7 121. Plaintiff did not return to work on December 3, 2018, however, because she was on a
8 planned family vacation through December 10, 2018 plus, as it turned out, she was still ill from the typhus
9 the entire time, so she spent most of the vacation in bed, with intermittent fevers and with severe headaches.
10 Plaintiff planned to return to work on December 11, 2018, but was unable to return for two reasons: 1) She
11 was still suffering from severe vertigo, dizziness, and disequilibrium which are symptoms of typhus; and
12 2) She feared contracting typhus again, since her office is within two blocks of the Typhus Zone. (Typhus
13 can be contracted repeatedly, and since Plaintiff has an auto-immune disorder, she is at increased risk for
14 contracting typhus. In California, an employee is not required to work under hazardous working conditions
15 which present a serious risk of harm.) Although EMPLOYER Defendants had indicated they had sprayed
16 pesticide in Plaintiff’s personal office, the rest of the building had not been fumigated, so Plaintiff would
17 still not be protected from typhus-carrying fleas.

18 122. On December 9, 2018, Plaintiff learned that her health insurance had been changed from
19 Anthem, to Kaiser Permanente, without anyone even giving her any notice of this change. (Plaintiff found
20 out when she attempted to get a prescription refilled at the pharmacy.)

21 123. On December 20, 2018, when Plaintiff learned that Defendant CITY was not planning to
22 fumigate the City Hall East Building, she made a complaint to the California Division of Occupational
23 Safety and Health (DOSH), better known as Cal/OSHA, regarding the typhus outbreak, and the fact that
24 she contracted typhus. Also on December 20, 2018, Cal/OSHA sent a letter to Defendant CITY
25 ATTORNEY’S OFFICE, notifying it that a complaint had been filed and giving it five days to respond.
26 Plaintiff has been informed and therefore believes that Cal/OSHA has begun an investigation into her
27 complaint.

28 124. Also on December 20, 2018, Plaintiff saw U.S. HealthWorks Medical Group (“U.S.

1 HealthWorks”), which is the occupational medicine provider designated by EMPLOYER Defendants. The
2 medical provider at U.S. HealthWorks designated Plaintiff as temporarily totally disabled from December
3 20 to December 21, 2018, and designated Plaintiff as temporarily partially disabled from December 21,
4 2018 through December 28, 2018. On the Injury Status Report, the medical provider wrote: “No Driving.”
5 On the Work Status Report, the medical provider wrote: “The patient has been advised not to drive or
6 operate heavy equipment.”

7 125. Since U.S. HealthWorks was the occupational medicine provider designated by
8 EMPLOYER Defendants, Plaintiff assumed U.S. HealthWorks would notify EMPLOYER Defendants of
9 her work restriction. (In fact, persons at U.S. HealthWorks **told** Plaintiff they would notify EMPLOYER
10 Defendants of Plaintiff’s “temporarily partially disabled” status.) Despite this, just to make sure there was
11 no confusion and that her job was protected, on December 21, 2018, Plaintiff advised EMPLOYER
12 Defendants of this work restriction. In her December 21, 2018 email to David Trujillo, Plaintiff wrote:

13 I went to the City doctor last night. He has put me on modified duty. My
14 limitation is that I am unable to drive because of the vertigo. He said they
15 would send you a copy of his report with the restriction. I go back on
12/27/18 for a follow up. Please let me know what else you need from me.

16 Defendants’ response was swift and sure. Defendants immediately (that same day, **only three hours later**)
17 sent Plaintiff a letter advising her that she was “absent without leave,” and threatening to terminate her.
18 The letter came from HR Analyst David Trujillo, who must know employees are not required to work under
19 hazardous working conditions which present a serious risk of harm.

20 126. Plaintiff went to U.S. HealthWorks again on December 27, 2018, and the medical provider
21 extended Plaintiff’s “temporarily partially disabled” status through January 7, 2019. On the Work Status
22 Report, the medical provider wrote: “The patient has been advised not to drive or operate heavy
23 equipment.” Plaintiff emailed the Work Status Report and Injury Status Report to Defendant BRENTE and
24 David Trujillo on December 28, 2018. In her December 28, 2018 email, Plaintiff advised both David
25 Trujillo and Defendant BRENTE that she was available to work from home. (To date, she has not been
26 assigned any work.) Out of an abundance of caution, Plaintiff’s employment law attorney also emailed the
27 December 27, 2018 reports from U.S. HealthWorks to Vivienne Swanigan (Managing Assistant City
28 Attorney and Supervising Attorney of the Labor Relations Division) on January 7, 2019, and again on

1 January 10, 2019.

2 127. Meanwhile, on December 31, 2018, Vivienne Swanigan sent a letter in which she
3 acknowledged Plaintiff's medical reports putting her on leave through December 27, 2018, but ignored the
4 Work Status Report and Injury Status Report Plaintiff had emailed to Defendant BRENTÉ and David
5 Trujillo on December 28, 2018, and threatened Plaintiff's job by stating Plaintiff was absent without leave.
6 Also in this letter, Vivienne Swanigan (a 33-year attorney, in a very high position in Defendant CITY
7 ATTORNEY'S OFFICE) denied Defendant CITY ATTORNEY'S OFFICE had a duty to reasonably
8 accommodate Plaintiff's disability of being unable to drive due to her severe vertigo. Also, rather
9 incredibly, Vivienne Swanigan stated that Defendant CITY ATTORNEY'S OFFICE does not have access
10 to Plaintiff's workers' compensation case records. Plaintiff had actually submitted her workers'
11 compensation Employee's Report of Injury/Illness to the Human Resources Department within Defendant
12 CITY ATTORNEY'S OFFICE. On the form, Plaintiff identified her illness as: "Typhus. Headache, fever,
13 chills, stiff neck, rash, vomiting, vertigo, exhaustion." Plaintiff alleges based on information and belief that
14 Defendant FEUER directed Vivienne Swanigan to send the December 31, 2018 letter.

15 128. Plaintiff again went to U.S. HealthWorks on January 7, 2019, and the medical provider
16 extended Plaintiff's "temporarily partially disabled" status through January 21, 2019. Again, the restriction
17 was that Plaintiff was "not to drive or operate heavy machinery." Plaintiff emailed the Work Status Report
18 and Injury Status Report to HR Analyst David Trujillo on January 8, 2019. Out of an abundance of caution,
19 Plaintiff's employment law attorney emailed the documents to Vivienne Swanigan on January 8, 2019, and
20 again on January 11, 2019. When Plaintiff went to U.S. HealthWorks on January 21, 2019, this same
21 restriction was continued through January 28, 2019. Again, Plaintiff emailed the reports from U.S.
22 HealthWorks to David Trujillo, and Plaintiff's attorney sent them to Vivienne Swanigan.

23 129. On January 1, 2019, Plaintiff's health insurance was once again terminated.

24 130. In early January 2019, Plaintiff contacted the Los Angeles County Vector Control District
25 and advised them that she had contracted typhus while working at City Hall East.

26 131. On January 17, 2019, all named Defendants were served with Plaintiff's Department of Fair
27 Employment and Housing Complaint (which she had filed on January 14, 2019). At Defendant CITY
28 ATTORNEY'S OFFICE, the Complaint was received by Vivienne Swanigan.

1 132. Also on January 17, 2019, Vivienne Swanigan sent a letter stating that there was “no staff,
2 no equipment, no authorization, and no funds” and “no plan” to fumigate City Hall East. Plaintiff alleges
3 based on information and belief that Defendant FEUER directed Vivienne Swanigan to send the January
4 17, 2019 letter.

5 133. It was (and is) the position of Plaintiff and her attorney that EMPLOYER Defendants have
6 a legal duty to reasonably accommodate Plaintiff’s commute-related limitations. Plaintiff repeatedly
7 requested of David Trujillo, and Plaintiff’s attorney repeatedly requested of Vivienne Swanigan, that
8 Plaintiff’s disability of not being able to drive because of the vertigo, dizziness, and disequilibrium which
9 were caused by typhus (which Plaintiff contracted at work) be reasonably accommodated. One such
10 communication was in a January 22, 2019 letter from Plaintiff’s attorney to Vivienne Swanigan. Vivienne
11 Swanigan’s response, in a letter dated January 25, 2019, was that she would not be communicating with
12 Plaintiff’s attorney any further. Plaintiff alleges based on information and belief that Defendant FEUER
13 directed Vivienne Swanigan to send the January 25, 2019 letter.

14 134. Also on January 25, 2019, Plaintiff filed the original Complaint in this action.

15 135. Plaintiff again went to U.S. HealthWorks on January 28, 2019, and the medical provider
16 extended Plaintiff’s “temporarily partially disabled” status through February 11, 2019. Again, the Work
17 Status Report stated that Plaintiff was “not to drive or operate heavy machinery.” The Work Status Report
18 further stated: “In the event that your employee has restrictions and no modified work is made available,
19 employer must keep employee off work unless, and until, such modified work is made available.” Plaintiff
20 emailed the Work Status Report and Injury Status Report to HR Analyst David Trujillo on January 28,
21 2019, and Plaintiff’s attorney emailed the documents to Vivienne Swanigan on January 28, 2019.

22 136. On January 29, 2019, Plaintiff was interviewed by Joel Grover of NBC 4 local news
23 regarding her typhus. Plaintiff told about contracting typhus while working at City Hall East, and about
24 how sick the typhus had made her. On January 30, 2019, EMPLOYER Defendants were contacted by Joel
25 Grover for comment.

26 137. On January 31, 2019, David Trujillo sent an email to Plaintiff in which he stated “driving
27 or operating heavy equipment” were not “essential functions” of Plaintiff’s Deputy City Attorney position,
28 and that Plaintiff was expected to report for work on Monday, February 4, 2019. In fact, Defendant

1 BRENTE had stated in his June 12, 2017 memo titled “Essential Functions of Deputy City Attorneys in
2 Police Litigation Unit”:

3 It should be noted that taking and defending depositions often involves travel
4 both in southern California and across the United States . . . the duties
5 include defending the case at trial, which involves travel to and from court
6 (by walking or car) . . . While most of the cases are venued in downtown
Los Angeles, some federal cases are assigned to the Santa Ana and Riverside
courthouses, and some superior court cases are assigned to the San Fernando
Valley or other branch courthouses.

7 Plaintiff alleges that this January 31, 2019 order that she report for work was in retaliation both for Plaintiff
8 filing and serving her DFEH Complaint and for her speaking to the media about contracting typhus at City
9 Hall East. Plaintiff further alleges on information and belief that Defendant FEUER directed that the
10 January 31, 2019 order for Plaintiff to report to work be made.

11 138. Also on January 31, 2019, Plaintiff appeared on NBC Channel 4 News at 11:00 p.m. where
12 she spoke as described in paragraph 136 above.

13 139. On February 1, 2019, Plaintiff sent an email to David Trujillo, in reply to his January 31,
14 2019 email ordering her to report to work. In her email, Plaintiff stated, among other things:

15 The conditions in City Hall East are a threat to the health of City employees
16 and to the public health. The City Attorney’s office has been contacted by
17 Cal/OSHA about the threat to public health and has ignored their letter. From
18 my understanding, the City Attorney has not even notified other departments
that a City Attorney employee contracted typhus at City Hall East. No one
has notified the Mayor’s office.

19 The fact the City Attorney has known of this health threat since November
20 2018; known that a City employee has been diagnosed with typhus since
21 December 2018; was contacted by Cal/OSHA December 20, 2018; has my
22 medical records proving I have Typhus since January 10, 2019; and has done
23 nothing about protecting the employees or the public entering the building
24 is obscene. The City Attorney has not even notified others in the building
that an employee was infected so they know of their exposure there or they
can take precautions. I would also add that the rat problem at City Hall East
is not new. This has been going on for years, and the City and the City
Attorney’s Office allowed the infestation to get so out of control that people
are being exposed to a disease which is most often associated with
devastating epidemics from the Middle Ages.

25 I have been employed by the City Attorney’s Office for over 22 years, and
26 am being treated like the trash which is lining the streets around City Hall
27 East. I seriously doubt a male who is a 22-year deputy city attorney and
28 contracted Typhus on the job would be treated as I have been and am being
treated. I should not be surprised, though, as this discrimination on the basis
of sex has been consistent behavior by the City Attorney’s Office over the
years.

1 I implore the City and the City Attorney's Office to protect the City
2 employees, clients, co-counsel and opposing counsel, witnesses, contractors,
3 and the public from this public health crisis you are allowing to continue.

4 140. Also on February 1, 2019, EMPLOYER Defendants were served with the Complaint in this
5 matter.

6 141. Also on February 1, 2019, Plaintiff was featured in the *Daily Mail* in an article called "LA
7 City Hall Official Is the Latest Struck by TYPHUS in the City's Raging Epidemic." The article reads, "Liz
8 believes the rats that nestle in the building's trash were carrying fleas that transmitted the disease." The
9 article further reads: "She has yet to go back to work, and is calling on the city to fumigate the building
10 before she does 'because I thought I was going to die.'"

11 142. On February 4, 2019, Plaintiff sent an email to David Trujillo in which she accused
12 EMPLOYER Defendants of retaliating against her for suing for her rights under the FEHA.

13 143. Also on February 4, 2019, Plaintiff was interviewed on John and Ken (KFI AM 640 Radio
14 and Podcast) and she spoke at length about the typhus outbreak, about the fact that she had contracted
15 typhus while working at City Hall East, and about the fact that Defendant CITY and Defendant CITY
16 ATTORNEY'S OFFICE had refused to fumigate.

17 144. On or about February 5, 2019, Plaintiff told Oscar Winslow, President of the Los Angeles
18 City Attorneys Association (LACAA), about her typhus diagnosis. Mr. Winslow was very surprised, since
19 no one at Defendant CITY ATTORNEY'S OFFICE had told its employees anything about protecting
20 themselves from typhus-carrying fleas. Something as simple as advising employees to wear boots would
21 have provided them a small amount of protection.

22 145. On February 6, 2019 (only three workdays after EMPLOYER Defendants were served with
23 the Complaint in this matter, and within days of Plaintiff speaking to various media about contracting
24 typhus while working at City Hall East) David Trujillo sent Plaintiff an email notifying her that she was
25 expected to report to her new supervisor Julie San Juan at her new work location at the Pacific Office,
26 Criminal Branch (11701 S. La Cienega Boulevard, Los Angeles 90045) on February 11 (even though
27 Plaintiff had previously submitted documents from U.S. HealthWorks stating that she was "temporarily
28 partially disabled" and was "not to drive or operate heavy machinery" through February 11, 2019). In this

1 position, Plaintiff would be handling misdemeanor arraignments at the Pacific Office, Criminal Branch.
2 A change in assignment from working in the Police Litigation Unit, where she was defending Defendant
3 CITY in million-dollar cases, to a position handling misdemeanor arraignments (which is an entry-level job)
4 was humiliating and demeaning. This was clearly a change to an inferior position, with much less status
5 than the position Plaintiff had held with the Police Litigation Unit, and was therefore an involuntary and
6 wrongful demotion. Additionally, this demotion did nothing to address the accommodation Plaintiff needed
7 relating to her inability to drive due to vertigo caused by the typhus. Plaintiff alleges that this February 6,
8 2019 demotion was in direct retaliation for her continued complaining, both internally and to the media,
9 about the typhus epidemic and, specifically, at City Hall East. Plaintiff further alleges on information and
10 belief that Defendant FEUER directed Plaintiff's demotion from working in the Police Litigation Unit to
11 handling misdemeanor arraignments at the LAX courthouse for the Pacific Office, Criminal Branch.

12 146. On February 7, 2019, Plaintiff was interviewed to appear on the Channel 5 11:00 a.m. News,
13 on the Channel 11 News at 1:00 p.m., and on John and Ken (on KFI AM 640 Radio and Podcast) at 3:00
14 p.m.

15 147. Also on February 7, 2019, Plaintiff was featured in an article in the *Los Angeles Times* titled
16 "L.A. City Hall, overrun with rats, might remove all carpets amid typhus fears." This article discusses the
17 rat infestation at City Hall and a proposition to remove all of the carpet from City Hall and the adjoining
18 buildings. Plaintiff was featured in the article and was quoted as saying:

19 I am actually terrified of entering the building again until they do something"
20 and "that carpet is years old – and, more than likely, it has fleas and flea eggs
21 in it" and "I would really like to see the building fumigated for both rats and
fleas . . . I hope they don't wait.

22 148. Also on February 7, 2019, Plaintiff was featured on KTLA (Channel 5), again speaking out
23 about the typhus epidemic and about the fact that she contracted typhus while working at City Hall East.
24 That same day, Plaintiff was featured on the front page of the *Daily Breeze*, in an article titled "Deputy LA
25 City Attorney in San Pedro goes public with typhus bout prompting City Hall to take notice."

26 149. The very next day (February 8, 2019), knowing Plaintiff had previously submitted
27 documents from U.S. HealthWorks stating that she was "temporarily partially disabled" and was "**not to**
28 **drive** or operate heavy machinery" **through February 11, 2019**, David Trujillo sent Plaintiff an email with

1 instructions regarding where she was to **park on February 11**, when she reported for her new (demoted)
2 assignment handling misdemeanor arraignments at the Pacific Office, Criminal Branch. Plaintiff replied
3 via email, stating:

4 We are preparing a response to your sudden and unexpected change
5 demotion in my job to an entry level assignment I have not done in over 20
6 years. The airport courthouse is not accessed by train and will require a two
7 mile walk and three separate bus rides. It is more complicated than City Hall
8 East. Further, as you are aware since you have had the document for two
9 weeks, I have a doctor's appointment at US HealthWorks in downtown at
10 1:30 in the afternoon. Is someone driving me there and back? You should
11 know the appointments may take up to 4 hours. I will have to leave the
12 airport shortly after arrival in order to make my appointment if you are
13 expecting me to take public transportation.

14 I am wondering if this demotion is until OSHA clears the building and I am
15 able to enter without putting my life at risk.

16 150. On Saturday, February 9, 2019, Plaintiff was mentioned in an article in the *Los Angeles*
17 *Times* titled "L.A. officials target vermin at City Hall." On Sunday, February 10, 2019, Plaintiff was
18 featured in an article on the front page of the "California" section titled, "She's 'the canary in the coal
19 mine.'" Plaintiff's photograph was included, with a caption which read: "L.A. DEPUTY CITY ATTY.
20 Elizabeth Greenwood said flea bites at City Hall gave her typhus. Her bosses didn't believe she had the
21 disease, she said."

22 151. On February 11, 2019, Plaintiff once again went to U.S. HealthWorks, where she was once
23 again designated as "temporarily partially disabled." Since Plaintiff was going to see the City-designated
24 infectious disease specialist on February 14, the doctor at U.S. HealthWorks extended her disability period
25 only through February 14, 2019. Plaintiff emailed the Work Status Report and Injury Status Report to HR
26 Analyst David Trujillo on February 11, 2019.

27 152. Also on February 11, 2019, Plaintiff sent David Trujillo a very long email, stating her
28 objections to the demotion to the Pacific Office, Criminal Branch (handling misdemeanor arraignments at
the LAX courthouse). Among other things, Plaintiff wrote:

In early December 2018, I reported the typhus danger to Los Angeles County
Health Department, Acute Communicable Disease Department. On
December 20, 2018, I reported the typhus danger at City Hall East, and the
City Attorney's refusal to take any action to protect its employees, to
Cal/OSHA. In early January 2019, I reported the same health dangers the
City Attorney was knowingly allowing to persist to Los Angeles County
Vector Control District.

1 I also filed a complaint with the Department of Fair Employment and
2 Housing, which was served on the City Attorney's Office on January 17.
3 Later in January, after the City Attorney's office continued to stonewall me
4 over the public health issue it was allowing to persist, I started talking to
5 NBC. I talked to Joel Grover about the failure of the City Attorney's Office
6 to protect me and then for the past several months its employees (and the
7 members of the public who visit City Hall and City Hall East) from typhus.
8 We discussed at length the City Attorney's Office had known about this for
9 months and had not even sent a department wide email warning employees
10 about the danger they faced.

11 The day after the City Attorney's administration received a call from Joel
12 Grover regarding safety precautions taken after my diagnosis, on January 31,
13 you sent me an email once again ordering me back to work "or else," despite
14 the orders from U.S. HealthWorks – the City's own industrial medicine
15 provider. You falsely stated "driving or operating heavy equipment" is not
16 an essential function of my job. I replied to your email by my email dated
17 February 4. In case you do not recall the contents of my email, I stated:

18 The City of Los Angeles created an environment in which I was injured,
19 badly. The standard you should be looking at is one of reasonable
20 accommodation, not "essential function." However, since you brought it up,
21 driving a vehicle is an essential function of my job. I am required to attend
22 depositions as well as depose plaintiffs, defendants, and witnesses offsite.
23 Further, I am required to attend court hearings all over Los
24 Angeles, Riverside, and Orange Counties. . . .

25 How the City Attorney could knowingly expose its employees to this
26 horrible bacteria is shocking to me. The fact it knowingly exposes the public,
27 who enters the building every day to conduct business, is criminal. The fact
28 that you, Vivienne Swanigan, and the City Attorney's office are retaliating
against me for standing up for my legal rights and for speaking out and
telling people the danger they face walking into that building is
unconscionable. . . .

My loud and repeated whistling to the Department of Fair Employment and
Housing, the Los Angeles Superior Court, Cal/OSHA, the Los Angeles
Vector Control District and the media has resulted not in the City Attorney's
Office doing the right (and smart) thing, but instead in you (and Vivienne
Swanigan) sending the February 6, 2019 email in which you advise me that
I am being transferred to the airport courthouse, where I will be a
misdemeanor line deputy doing misdemeanor arraignments. This is so
obviously a demotion it constitutes unlawful retaliation under common law
and several sections of the Labor Code. (My attorney is currently amending
the lawsuit to include the latest acts against me.)

153. On February 12, 2019, David Trujillo sent an email to Plaintiff in which he stated:

[I]t appears you are rejecting the assignment to the Pacific Branch as a
reasonable accommodation. Therefore, we will continue to look for
alternative positions; however, at present, no positions are available in the
Port or Harbor area. In the meantime, as a reasonable accommodation, the
Office will allow your Personal Medical Leave for yesterday, Wednesday,
and Thursday [February 11, 13, and 14] and will utilize your 75% sick time

1 for those days, as requested. The Office will also credit you with 4 hours for
2 your participation in the reasonable accommodation process this pay period
3 in order to allow you to reach the 40 hour threshold needed to maintain your
4 medical coverage.

5 (Plaintiff had attended a LACERS meeting all day on Tuesday, February 12; her mother drove her to the
6 meeting and her domestic partner drove her home.)

7 154. On February 13, 2019, Plaintiff filed a complaint with the U.S. Department of Occupational
8 Safety and Health Administration (Federal OSHA) alleging retaliation for filing a complaint with
9 Cal/OSHA regarding safety and health hazards at her workplace.

10 155. On February 14, 2019, Plaintiff saw infectious disease specialist Richard T. Sokolov, M.D.
11 (another City-designated doctor). Dr. Sokolov directed that Plaintiff be off work for the next three weeks.
12 Dr. Sokolov told Plaintiff that since she was still suffering from vertigo, her brain had not recovered from
13 the typhus, so she should not be working. Dr. Sokolov also stated it was his professional opinion that
14 Plaintiff had contracted the typhus while working at City Hall East.

15 156. Also on February 14, 2019, Plaintiff sent another very long email to David Trujillo. Among
16 other things, Plaintiff wrote:

17 . . . I object to the term “Personal Medical Leave” since this is leave which
18 is necessary because of an on-the-job injury, and for which I have filed a
19 workers’ comp claim. I am also confused regarding what this means. It is
20 not clear to me whether the medical leave is intended to be from now until
21 the City Attorney’s Office comes up with an appropriate reasonable
22 accommodation, or whether it is only for Monday, Wednesday, and
23 Thursday of this week. That question is probably not that important now,
24 though, because today I saw the infectious disease doctor Richard Sokolov,
25 M.D. (who U.S. HealthWorks referred me to and will be my industrial injury
26 treating physician), and he put me off work for three weeks, effective today.
27 A copy of Dr. Sokolov’s prescription placing me off work is attached to this
28 email.

29 I cannot tell you how disappointing it is to see the level of indifference the
30 City Attorney’s office has shown to me, to the safety of the employees who
31 work in City Hall East, and to the health of the members of the public forced
32 to come to the building to conduct their business with the City. This office
33 has been on notice of my illness since November 27, 2018. Their failure to
34 act, their failure to even notify people of the danger they face walking into
35 the building is grossly negligent and a complete abdication of the public
36 trust.

37 157. On both Saturday, February 16, and Sunday, February 17, Plaintiff was again mentioned in
38 articles in the *Los Angeles Times* regarding the typhus epidemic and the rat and flea infestation at City Hall

1 and City Hall East.

2 158. On February 22, 2019, the Acting Human Resources Director, Stephanie B. Ybarra, sent
3 Plaintiff a letter advising her that her “request for a personal medical leave of absence extension” had been
4 “approved as a reasonable accommodation for the continuous period of February 11, 2019 through March
5 7, 2019.” In a total denial of their part in causing Plaintiff’s injuries, EMPLOYER Defendants continue
6 to use the terms “personal medical leave of absence” and “reasonable accommodation” even though
7 Plaintiff was unable to work because of an on-the-job injury, Plaintiff had filed a workers’ compensation
8 claim, and the City-designated infectious disease specialist had stated Plaintiff was unable to work. The
9 letter was also emailed to Julie San Juan, Plaintiff’s new supervisor at her new assignment at the Pacific
10 Office, Criminal Branch.

11 159. Later on February 22, 2019, Plaintiff sent an email to David Trujillo in which she wrote:

12 I received your letter granting personal medical leave until March 7, 2019,
13 due to my recovering from the typhus I contracted at work. My next doctor’s
14 appointment is March 14, 2019, so I am unsure how you wish for me to go
to work, or to where you expect me to report prior to my next doctor’s
appointment. I will not have a medical release before that appointment.

15 I have still not received a phone call from anyone at the City Attorney’s
16 office inquiring about my health. I mention that because it is shockingly rude
and insensitive. Nor have I received any communication whatsoever that
17 resembles a conversation about what would be a reasonable accommodation
after management let the health and cleanliness conditions in City Hall East
reach the point that I almost died. I have only received orders to show up at
18 different work sites for different jobs.

19 Our last communication involved my unilateral and involuntarily transfer.
20 I called my association for assistance because involuntary transfers involve
the MOU, and in my case also violate Whistleblower statutes. . . . I asked
21 you with which supervisor I should begin the grievance process. You replied
characterizing my response as a refusal of your reasonable accommodation
but never answered my question about which supervisor I should contact.

22 Based on your response I incorrectly assumed that transfer was not going to
23 happen. Julie San Juan was included in today’s email, but not Cory Brente.
Should I assume the office is continuing with the illegal unilateral
24 involuntary transfer?

25 I look forward to your rapid response.

26 160. David Trujillo responded (on February 22) that the transfer to the Pacific Office, Criminal
27 Branch was “no longer happening,” but he gave no indication regarding whether anything *would* be
28 happening.

1 161. As of this date, Plaintiff has still not returned to work, because she is still suffering from
2 severe vertigo, dizziness, and disequilibrium and is therefore unable to drive, and because the building
3 where her office is located has still not been fumigated. Additionally, the electric high-adjustable desk and
4 electric high-adjustable chair which Plaintiff requires in order to be able to work without extreme pain to
5 her lumbar spine have still not been delivered to her office. (Having to bend over and manually lower or
6 raise a desk and chair several times per day is counterproductive to accommodating Plaintiff's lumbar spine
7 injury.)

8 162. Plaintiff has repeatedly requested that the building where she works (City Hall East) be
9 fumigated before she returns to work. Even though Defendant CITY began fumigating other buildings in
10 October 2018, EMPLOYER Defendants have failed and refused to fumigate City Hall East. (The Los
11 Angeles Police Department buildings have been fumigated on about October 10, October 26, and December
12 14, 2018.) Plaintiff has pointed out that, because of her auto-immune disorder, she is at greater risk than
13 others for re-contracting typhus, but EMPLOYER Defendants have still failed and refused to fumigate City
14 Hall East.

15 163. Plaintiff's most recent medical leave expired March 7, 2019. She has been unable to see Dr.
16 Sokolov again to either have her leave extended or be cleared to return to work, because her workers'
17 compensation claim had been closed, either by Defendant CITY or by its workers' compensation
18 administrator, Elite Claims, even though Plaintiff continues to suffer from lingering symptoms of typhus.

19 164. Plaintiff remains under the care of her general physician (Terry Ishihara, M.D.), her pain
20 management doctor (Fabian Proano, M.D.), her gynecologist (Reza Askari, M.D.), and her endocrinologist
21 (Olga Caloff, M.D.) for treatment of all her medical conditions except the typhus. For the typhus, Plaintiff
22 is still being treated by the doctors at United HealthWorks, and the City-designated infectious disease
23 specialist, Richard T. Sokolov, M.D.

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CAUSES OF ACTION

FIRST CAUSE OF ACTION

DISCRIMINATION ON THE BASIS OF PHYSICAL DISABILITIES IN VIOLATION OF THE FAIR EMPLOYMENT AND HOUSING ACT

[Including, specifically, Gov. Code § 12940(a)]

[Against EMPLOYER Defendants and DOE Defendants]

165. Plaintiff realleges and incorporates herein by reference Paragraphs 1 through 164 above, as though fully set forth in this cause of action.

166. At all relevant times for purposes of this Complaint, the FEHA was in full force and effect and binding on Defendants. The FEHA provides:

It is an unlawful employment practice, unless based upon a bona fide occupational qualification . . . (a) For an employer, because of the . . . physical disability . . . of any person, to . . . discriminate against the person in compensation or in terms, conditions, or privileges of employment.

[Gov. Code § 12940(a).]

167. As defined by the FEHA, “physical disability” includes:

- 1) Having any physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss that does both of the following:
 - A) Affects one or more of the following body systems: neurological, immunological, musculoskeletal . . . , reproductive, . . . skin, and endocrine.
 - B) Limits a major life activity. . . .
- 2) Any other health impairment not described in paragraph (1) that requires special education or related services.
- 3) Having a record or history of a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment described in paragraph (1) or (2), which is known to the employer or other entity covered by this part.
- 4) Being regarded or treated by the employer or other entity covered by this part as having, or having had, any physical condition that makes achievement of a major life activity difficult.
- 5) Being regarded or treated by the employer or other entity covered by this part as having, or having had, a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment that

has no present disabling effect but may become a physical disability as described in paragraph (1) or (2).

[Gov. Code § 12926(m).]

168. At all relevant times herein, Plaintiff was a disabled person within the meaning of Government Code sections 12926(m) and 12926.1(b) because she was a person with numerous actual disabling or potentially disabling in the future, physical disabilities.

169. Plaintiff's physical disabilities include, but are not limited to:

- a) A severe musculoskeletal disability of the lumbar spine, which has required surgery, steroid injections, selective root blocks, and numerous other treatments;
- b) Reproductive disabilities including an emergency hysterectomy, an abrupt menopause, and numerous complications of menopause including, but not limited to, needing to sleep up to 16 hours per night, memory loss, difficulty concentrating, and inability to think or reason at her normal level;
- c) A skin disability consisting of rashes, itchiness, and skin which was constantly sweaty, causing it to be difficult for her hysterectomy incision to heal, and causing her to develop a postoperative wound infection;
- d) An immunological disability consisting of an unspecified auto-immune disorder, which contributes to Plaintiff's need to sleep up to 16 hours per night;
- e) An endocrine disability consisting of hypothyroidism and extreme hormone imbalances, which contributes to Plaintiff's need to sleep up to 16 hours per night; and
- f) A neurological disability consisting of extreme vertigo, dizziness, and disequilibrium which were caused by typhus, and which prevent Plaintiff from being able to drive.

170. At all relevant times herein, Defendants had notice of Plaintiff's disabilities, need for medical treatment, need for accommodations, and need for protected medical leave.

171. Defendants knew about Plaintiff's lumbar spine disability beginning in late 2009/early 2010, because Plaintiff told both her immediate supervisor, Sonja Dawson, and the Human Resources Department that she had been diagnosed with severe lumbar radiculopathy and was receiving lumbar epidural steroid injections and selective nerve root blocks. In March 2010, Plaintiff underwent spinal surgery, and she

1 notified her immediate supervisor and the Human Resources Department of this at the time.

2 172. In September 2010, Plaintiff informed her new supervisor in the Housing Enforcement
3 Department of her lumbar spine disability, and about the pain she was having, especially when sitting in
4 her desk chair at work (at her office in the San Pedro City Hall). Over the next few months, Plaintiff
5 repeatedly told Jonathan Galatzan about the pain she was experiencing while sitting, but Defendants failed
6 to initiate a timely, good-faith, interactive process or do anything else regarding Plaintiff's complaints of
7 pain caused by sitting at her desk.

8 173. Over the years, Plaintiff told all her immediate supervisors, numerous people in
9 EMPLOYER Defendants' Human Resources and Personnel Departments (including the Occupational
10 Safety and Health Division of Defendant CITY's Personnel Department) about her lumbar spine disability
11 and her need for accommodations. For example, Plaintiff told Donald Cocek (starting in about November
12 2011), Defendant BRENTE (starting in about June 2013), Wanda Hudson (starting in about January 2016),
13 Daniela Zaccaro (starting in about February 2016), Cristina Sarabia (starting in about June 2016), and David
14 Trujillo (starting in about July 2017), among others, about her lumbar spine disability and her need for
15 accommodations. On August 14, 2017, Plaintiff submitted a workers' compensation Employee's Report
16 of Injury/Illness to the Human Resources Department within Defendant CITY ATTORNEY'S OFFICE for
17 her lumbar spine injury.

18 174. Plaintiff also told numerous other persons who were agents and/or employees of
19 EMPLOYER Defendants about her need for work restrictions and for reasonable accommodations for her
20 lumbar spine (musculoskeletal) disability starting in late 2009 or early 2010, and continuing to the present.
21 She even submitted prescriptions from her doctors relating to such restrictions as bending, stooping, lifting,
22 sitting for more than one hour, and standing for more than one hour, and about the need for various
23 ergonomic furniture and equipment, and the need for an ergonomic evaluation of her office.

24 175. Defendants knew about Plaintiff's reproductive disabilities beginning in March 2016, when
25 Plaintiff informed Defendant BRENTE (Plaintiff's immediate supervisor at the time), Cristina Sarabia, and
26 Wanda Hudson that she was having an emergency hysterectomy. Plaintiff told Defendant BRENTE and
27 Wanda Hudson about the exhaustion and need for 16 hours of sleep per night, and about the memory loss,
28 difficulty concentrating, and inability to think or reason at her normal level (starting in about May 2016).

1 Plaintiff discussed her reproductive disabilities and the accommodations that she required relating to her
2 reproductive disabilities on a regular basis, from May 2016 to the present. For example, starting in about
3 May 2016, Plaintiff repeatedly discussed with Defendants her needs for work restrictions, permission to
4 work from home, a flexible work schedule, reduced hours, and extended (protected) leave.

5 176. Defendants also knew about Plaintiff's skin disabilities, consisting of rashes, itchiness, and
6 skin which was constantly sweaty (causing delayed healing of her hysterectomy incision), beginning in
7 about May 2016, when she told Defendant BRENTE and Wanda Hudson about these medical issues.
8 Plaintiff also discussed her skin disabilities with other employees of Defendants (starting in May 2016 and
9 continuing to the present).

10 177. Defendants also knew about Plaintiff's immunological disability, consisting of an
11 unspecified auto-immune disorder, beginning in about May 2016, when she told Defendant BRENTE and
12 Wanda Hudson about this disability. Plaintiff also discussed her immunological disability with David
13 Trujillo (starting in about July 2017 and continuing to the present), and with other employees of Defendants
14 (starting in May 2016 and continuing to the present).

15 178. Defendants also knew about Plaintiff's endocrine disability, consisting of severe
16 hypothyroidism and extreme hormone imbalances, beginning in about May 2016, when she told Defendant
17 BRENTE and Wanda Hudson about this disability. Plaintiff also discussed her endocrine disability with
18 David Trujillo (starting in about July 2017 and continuing to the present), and with other employees of
19 Defendants (starting in May 2016 and continuing to the present). Plaintiff told Defendants that, at least in
20 part because of her endocrine disability, she was needing to sleep up to 16 hours per night, and requested
21 an accommodation for this in the form of permission to work from home, a reduced work schedule, a
22 flexible work schedule, and extended (protected) leave.

23 179. When Plaintiff contracted typhus, which may have been related to her auto-immune disorder,
24 EMPLOYER Defendants refused to reasonably accommodate Plaintiff's disability of not being able to drive
25 because of the vertigo, dizziness, and disequilibrium (neurological disabilities) which were caused by
26 typhus. EMPLOYER Defendants have a legal duty to reasonably accommodate Plaintiff's commute-related
27 limitations.

28 180. Plaintiff has repeatedly requested that the building where she works (City Hall East) be

1 fumigated before she returns to work. Even though Defendant CITY began fumigating other buildings in
2 October 2018, EMPLOYER Defendants have failed and refused to fumigate City Hall East. Plaintiff has
3 pointed out that, because of her auto-immune disorder, she is at greater risk than others for re-contracting
4 typhus, but EMPLOYER Defendants have still failed and refused to fumigate City Hall East.

5 181. On January 29, 2019, Plaintiff was interviewed by Joel Grover of NBC 4 local news
6 regarding her typhus. On January 30, 2019, EMPLOYER Defendants were contacted by Joel Grover for
7 comment.

8 182. The next day, on January 31, 2019, David Trujillo sent an email to Plaintiff in which he
9 stated “driving or operating heavy equipment” were not “essential functions” of Plaintiff’s Deputy City
10 Attorney position, and that Plaintiff was expected to report for work on Monday, February 4, 2019. In fact,
11 Defendant BRENTTE had stated in his June 12, 2017 memo titled “Essential Functions of Deputy City
12 Attorneys in Police Litigation Unit”:

13 It should be noted that taking and defending depositions often involves travel
14 both in southern California and across the United States . . . the duties
15 include defending the case at trial, which involves travel to and from court
16 (by walking or car) . . . While most of the cases are venued in downtown
Los Angeles, some federal cases are assigned to the Santa Ana and Riverside
courthouses, and some superior court cases are assigned to the San Fernando
Valley or other branch courthouses.

17 Plaintiff alleges that this January 31, 2019 order that she report for work was in retaliation both for Plaintiff
18 filing and serving her DFEH Complaint and for her speaking to the media about contracting typhus at City
19 Hall East. Plaintiff further alleges on information and belief that Defendant FEUER directed that the
20 January 31, 2019 order for Plaintiff to report to work be made.

21 183. Also on February 1, 2019, EMPLOYER Defendants were served with the Complaint in this
22 matter.

23 184. On February 6, 2019 (only three workdays after EMPLOYER Defendants were served with
24 the Complaint in this matter, and within days of Plaintiff speaking to various media about contracting
25 typhus while working at City Hall East) David Trujillo sent Plaintiff an email notifying her that she was
26 expected to report to her new supervisor Julie San Juan at her new work location at the Pacific Office,
27 Criminal Branch (11701 S. La Cienega Boulevard, Los Angeles 90045) on February 11 (even though
28 Plaintiff had previously submitted documents from U.S. HealthWorks stating that she was “temporarily

1 partially disabled” and was “not to drive or operate heavy machinery” through February 11, 2019). In this
2 position, Plaintiff would be handling misdemeanor arraignments at the Pacific Office, Criminal Branch.
3 A change in assignment from working in the Police Litigation Unit, where she was defending Defendant
4 CITY in million-dollar cases, to a position handling misdemeanor arraignments (which is an entry-level job)
5 was humiliating and demeaning. This was clearly a change to an inferior position, with much less status
6 than the position Plaintiff had held with the Police Litigation Unit, and was therefore an involuntary and
7 wrongful demotion. Plaintiff alleges that this February 6, 2019 demotion was in direct retaliation for her
8 continued complaining, both internally and to the media, about the typhus epidemic and, specifically, at City
9 Hall East. Plaintiff further alleges on information and belief that Defendant FEUER directed Plaintiff’s
10 demotion from working in the Police Litigation Unit to handling misdemeanor arraignments at the LAX
11 courthouse for the Pacific Office, Criminal Branch.

12 185. On February 7, 2019, Plaintiff appeared on the Channel 5 11:00 a.m. News, on the Channel
13 11 News at 1:00 p.m., and on John and Ken (on KFI AM 640 Radio and Podcast) at 3:00 p.m..

14 186. Also on February 7, 2019, Plaintiff was featured in an article in the *Los Angeles Times* titled
15 “L.A. City Hall, overrun with rats, might remove all carpets amid typhus fears.” This article discusses the
16 rat infestation at City Hall and a proposition to remove all of the carpet from City Hall and the adjoining
17 buildings. Plaintiff was featured in the article and was quoted as saying:

18 I am actually terrified of entering the building again until they do something”
19 and “that carpet is years old – and, more than likely, it has fleas and flea eggs
20 in it” and “I would really like to see the building fumigated for both rats and
fleas . . . I hope they don’t wait.

21 187. Also on February 7, 2019, Plaintiff was featured on KTLA (Channel 5), again speaking out
22 about the typhus epidemic and about the fact that she contracted typhus while working at City Hall East.
23 That same day, Plaintiff was featured on the front page of the *Daily Breeze*, in an article titled “Deputy LA
24 City Attorney in San Pedro goes public with typhus bout prompting City Hall to take notice.”

25 188. The very next day (February 8, 2019), knowing Plaintiff had previously submitted
26 documents from U.S. HealthWorks stating that she was “temporarily partially disabled” and was “**not to**
27 **drive or operate heavy machinery” through February 11, 2019**, David Trujillo sent Plaintiff an email with
28 instructions regarding where she was to **park on February 11**, when she reported for her new (demoted)

1 assignment handling misdemeanor arraignments at the Pacific Office, Criminal Branch. Plaintiff replied
2 via email, stating:

3 We are preparing a response to your sudden and unexpected change
4 demotion in my job to an entry level assignment I have not done in over 20
5 years. The airport courthouse is not accessed by train and will require a two
6 mile walk and three separate bus rides. It is more complicated than City Hall
7 East. Further, as you are aware since you have had the document for two
8 weeks, I have a doctor's appointment at US HealthWorks in downtown at
9 1:30 in the afternoon. Is someone driving me there and back? You should
10 know the appointments may take up to 4 hours. I will have to leave the
11 airport shortly after arrival in order to make my appointment if you are
12 expecting me to take public transportation.

13 I am wondering if this demotion is until OSHA clears the building and I am
14 able to enter without putting my life at risk.

15 189. Plaintiff's most recent medical leave expired March 7, 2019. She has been unable to see Dr.
16 Sokolov again to either have her leave extended or be cleared to return to work, because her workers'
17 compensation claim had been closed, either by Defendant CITY or by its workers' compensation
18 administrator, Elite Claims.

19 190. At all relevant times herein, Plaintiff was qualified for and/or competently performed the
20 positions she held with Defendants.

21 191. At all relevant times herein, Plaintiff was able to perform the essential functions of her job
22 with reasonable accommodations. Unfortunately, the necessary reasonable accommodations were not
23 provided by Defendants, despite Plaintiff repeatedly requesting them and submitting certifications and notes
24 from her medical providers.

25 192. As a result of and substantially motivated by Plaintiff's actual disabilities, need for
26 accommodations, and need for protected leave, Defendants and each of them subjected Plaintiff to
27 discriminatory treatment and/or adverse employment actions as described herein.

28 193. Defendants engaged in unlawful employment practices in violation of the FEHA by
discriminating against Plaintiff based on her physical disabilities, and these practices were constant and
continuous. The discrimination started in Spring 2011, after Plaintiff repeatedly told Jonathan Galatzan
about her lumbar spine disability and repeatedly asked that he assist with getting her an ergonomic chair
and ergonomic evaluation of her office (which was in San Pedro). Rather than attempt to assist Plaintiff,
Jonathan Galatzan changed Plaintiff's job assignment so that she was required to work part of the time from

1 a storage closet in downtown Los Angeles, doing work which was not originally part of her job and which
2 she did not want to do. The discrimination continued and included, but was not limited to, the following:

3 a) Donald Cocek changing Plaintiff's job duties further, so that she had to work full-time doing work
4 which was not supposed to be any part of her job, and to do so from a storage closet in downtown
5 Los Angeles. There was no legitimate business reason for doing this. (This occurred in
6 approximately November 2011.)

7 b) Donald Cocek failing to assign cases to other attorneys while Plaintiff was on extended medical
8 leave in order to set Plaintiff up for discipline. (This occurred from approximately October 2012
9 to approximately January 29, 2013.)

10 c) Donald Cocek giving Plaintiff a Notice to Correct Deficiencies for failing to file cases which he had
11 assigned to her **after** she went out on approved leave, and the deadlines for which had passed
12 **before** she returned from leave. (This occurred in January 2013.)

13 d) Defendants failing to recommend Plaintiff for promotion or to promote Plaintiff when she was
14 transferred to the Police Litigation Unit, even though this position involves longer hours than
15 Plaintiff's previous position, and a significant amount of responsibility. (This occurred in June
16 2013.)

17 e) Defendants failing and refusing to accommodate Plaintiff's repeated requests for reasonable
18 accommodations. (This occurred from June 2013 to the present.)

19 f) Defendant BRENTE failing to recommend Plaintiff for promotion, and EMPLOYER Defendants
20 failing to promote Plaintiff on her anniversary date in March 2014.

21 g) Defendant BRENTE failing to recommend Plaintiff for promotion, and EMPLOYER Defendants
22 failing to promote Plaintiff on her anniversary date in March 2015.

23 h) Defendant BRENTE failing to order, purchase, and/or install Plaintiff's ergonomic furniture and
24 equipment (even though the ergonomic equipment of a male attorney in the same department was
25 quickly purchased and installed). (This occurred from February 16, 2016 to the present.)

26 i) Defendant BRENTE failing to recommend Plaintiff for promotion, and EMPLOYER Defendants
27 failing to promote Plaintiff on her anniversary date in March 2016.

28 j) Defendant BRENTE changing the official description of Plaintiff's essential job functions to make

1 it appear she could not perform the essential job functions for her position. (This occurred on June
2 12, 2017.)

3 k) Defendant BRENTE failing to recommend Plaintiff for promotion, and EMPLOYER Defendants
4 failing to promote Plaintiff on her anniversary date in March 2017.

5 l) Defendant BRENTE criticizing Plaintiff for missing work and not working from 8:30 a.m. to 5:00
6 p.m., even though Plaintiff had told Defendant BRENTE about her medical issues in detail (which
7 legally she was not required to do), and had explained to him the reasons why she had to take time
8 off work for so many medical appointments, and had to sleep 12 to 16 hours per night, making it
9 very difficult to arrive at work by 8:30 a.m. and to work for eight hours per day. There was not even
10 any business reason which required Plaintiff to be physically at the office from 8:30 a.m. to 5:00
11 p.m. (This occurred on June 21, 2017.)

12 m) Defendant BRENTE repeatedly failing and refusing to assign another attorney to cover Plaintiff's
13 cases while she was on leave for her disabilities, causing some filing deadlines to be missed on
14 cases which were still assigned to Plaintiff. (This occurred from summer 2017 through February
15 12, 2018, and again from February 28, 2018 through October 16, 2018.)

16 n) Defendants not only failing to recommend for promotion or promote Plaintiff, but even
17 withholding/denying Plaintiff's anniversary date step. (This occurred in March 2018.)

18 o) Defendant BRENTE issuing a formal Notice to Correct Deficiencies to Plaintiff, which dwelled
19 **solely** on difficulties Plaintiff was having at work due to her physical disabilities, despite the fact
20 that: i) Plaintiff had been on FMLA/CFRA leave from approximately March 12, 2010 through June
21 12, 2010 for her spinal surgery, ii) Plaintiff had been on FMLA/CFRA leave from approximately
22 March 11, 2016 through June 5, 2016 for her endometriosis and fibroid uterus, and then for the
23 emergency hysterectomy and the complications relating to that surgery, iii) Plaintiff had
24 communicated constantly with Defendant BRENTE regarding her various physical disabilities and
25 serious health conditions, and had answered many more questions regarding the details of her
26 serious health conditions than she was legally required to, iv) Plaintiff had been attempting to get
27 ergonomic furniture which would at least lessen her back pain **since early 2011**, v) Defendant
28 BRENTE was the person responsible for having the ergonomic items installed but the items had

1 been sitting in boxes in Plaintiff's office since July 2016, vi) Plaintiff had submitted a formal
2 request for reasonable accommodations to Human Resources and met with Human Resources about
3 this, and vii) Plaintiff had filed a workers' compensation claim on August 14, 2017. (This Notice
4 to Correct Deficiencies was issued on November 7, 2017.)

5 p) Plaintiff being summoned back to the office to receive the November 7, 2017 Notice to Correct
6 Deficiencies, **while** Plaintiff was at the doctor to obtain a note which Vivienne Swanigan had said
7 was required. The meeting was attended by Plaintiff, Defendant BRENTE, union representative
8 Oscar Winslow, and a woman from Personnel (name unknown). During this meeting, Plaintiff
9 described in detail all the health issues which were making it difficult for her to work regular hours
10 related to her severe menopause (hormone imbalances), her hypothyroidism, and her back injury.
11 She explained that much of the time when she was late to work, it was because she required so
12 much sleep because of the menopause symptoms (extreme hormone imbalances), combined with
13 her hypothyroidism. She again requested reasonable accommodations for all these physical
14 disabilities, such as permission to work from home, a flexible work schedule, reduced hours,
15 extended (protected) leave, and ergonomic improvements to her office equipment and furnishings.
16 Rather than discuss what reasonable accommodations might be possible, Defendant BRENTE said
17 to Plaintiff, right in front of Oscar Winslow and the woman from Personnel, "We all know the
18 workers' comp claim is bullshit." This was an accusation of Plaintiff committing an illegal act
19 (workers' compensation fraud). (This occurred on November 8, 2017.)¹⁵

20 q) Defendant BRENTE admonishing Plaintiff for not keeping up with her work while she was in
21 excruciating pain and attempting to work from home. (This occurred on March 8, 2018.)

22 r) Defendants failing and/or refusing, year after year as discussed above, to promote Plaintiff, even
23 while non-disabled attorneys with less experience, who were performing substantially similar or
24 even less complex and less demanding work, were promoted. (This began almost immediately after
25 Defendants learned of Plaintiff's musculoskeletal disability and has continued to the present.)

26 s) Defendant BRENTE failing and/or refusing to recommend Plaintiff for promotion in 2015, 2016,
27

28 ¹⁵Plaintiff actually prevailed in that workers' compensation claim, so apparently it was not "bullshit."

- 1 2017, or 2018, even though he recommended that non-disabled attorneys with less experience, who
2 were performing substantially similar or even less complex and less demanding work, be promoted.
- 3 t) Defendants telling Plaintiff that her ergonomic equipment (which had first been prescribed by
4 Plaintiff's doctor **seven years** earlier) had been "ordered," and that Human Resources was awaiting
5 shipment, and giving her no indication regarding when the equipment was expected to arrive. (This
6 occurred on June 8, 2018.)
- 7 u) Defendants terminating Plaintiff's health benefits (without notice) while she had still not received
8 any response to her April 25, 2018 request to take a FMLA/CFRA leave of absence, and the
9 ergonomic equipment and furnishings had still not been installed in her office, which would have
10 allowed her to return to work. (This occurred on June 9, 2018.)
- 11 v) Defendants threatening to terminate Plaintiff only three hours after she advised them of work
12 restrictions imposed by the medical provider U.S. HealthWorks, which is the occupational medicine
13 provider designated by EMPLOYER Defendants. (This occurred on December 21, 2018.)
- 14 w) Defendants stating that Plaintiff was absent without leave, even though she had submitted proper
15 documents from U.S. HealthWorks indicating she was temporarily partially disabled and unable to
16 drive. (This happened on December 31, 2018.)
- 17 x) Defendants failing and refusing to pay Plaintiff for her 2019 holiday and sick leave and changing
18 her health insurance from Anthem to Kaiser Permanente HMO without permission or notice.
19 (Plaintiff learned of this on December 9, 2018.)
- 20 y) Defendants denying Defendant CITY had a duty to reasonably accommodate Plaintiff's disability
21 of being unable to drive due to her severe vertigo.
- 22 z) Defendants denying that "driving" was an essential function of Plaintiff job, even though driving
23 requirements to other counties were clearly described in the June 12, 2017 "Essential Functions of
24 Deputy City Attorneys in Police Litigation Unit" document drafted by Defendant BRENTÉ.
- 25 aa) Defendants demoting Plaintiff to a position at Pacific Office, Criminal Branch, where she would
26 be doing misdemeanor arraignments at the LAX courthouse. Defendants claimed this was an
27 accommodation even though it did nothing to accommodate Plaintiff's driving restriction or the
28 ongoing problems with her workstation which was supposed to have designed to accommodate her

1 lumbar spine disability. (This happened on February 6, 2019.) Then, in what can only be seen as
2 an attempt to further demean, irritate, and upset Plaintiff, on February 8, EMPLOYER Defendants
3 sent Plaintiff a letter telling her where she was to park when she arrived at her new assignment at
4 Pacific Office, Criminal Branch, even though they knew the City-designated doctors are stated
5 Plaintiff was not to drive.

6 bb) EMPLOYER Defendants continuing to refer to Plaintiff's medical leave (first for her lumbar spine
7 disability and now for the typhus – injuries which both occurred at work and for which Plaintiff
8 filed workers' compensation claims) as "personal medical leave of absence." These are not personal
9 leaves, they are disability leaves for injuries which were caused by EMPLOYER Defendants.

10 cc) EMPLOYER Defendants failing to fumigate City Hall East so that it is safe for its employees and
11 the members of the public who visit the building.

12 dd) Defendants refusing to participate in a timely, good-faith, interactive process regarding Plaintiff's
13 requests for reasonable accommodations, even though Plaintiff repeatedly requested reasonable
14 accommodations.

15 ee) Defendants failing and refusing to conduct a timely, proper, and/or complete investigation of the
16 disability discrimination to which Plaintiff was subjected and about which Plaintiff complained to
17 Defendant BRENTE, David Trujillo, and numerous other employees of EMPLOYER Defendants.

18 194. At all relevant times herein, Defendants failed to provide reasonable accommodations to
19 Plaintiff so that she could perform her job without being in agonizing pain, or so exhausted she could not
20 concentrate, think, or reason at her normal level, even though Plaintiff repeatedly requested numerous
21 reasonable accommodations. (To say Defendants "failed" to provide reasonable accommodations is an
22 understatement. Defendants flat-out refused to provide reasonable accommodations, and repeatedly
23 aggravated and manipulated Plaintiff by making her obtain additional prescriptions from doctors and
24 participate in multiple ergonomic evaluations, then did things like ship some ergonomic items, but never
25 bother to take them out of the boxes and set them up.)

26 195. From November 2018 through the present, Defendants failed to provide reasonable
27 accommodations for Plaintiff's vertigo, so she could either work from home, or get to the office downtown.

28 196. The acts and conduct of Defendants and their agents, and each of them, were in violation

1 of the FEHA. The FEHA imposes certain duties upon Defendants concerning discrimination against
2 persons such as Plaintiff, on the basis of disabilities. The FEHA was intended to prevent the type of injury
3 and damage set forth herein.

4 197. Defendants and their agents also violated the FEHA by failing to take all reasonable steps
5 necessary to prevent such discrimination from occurring, in violation of Government Code section
6 12940(k). During the entire relevant period, Defendants created and fostered an environment where
7 unlawful discrimination was condoned, encouraged, tolerated, sanctioned, and ratified. During the entire
8 relevant period, Defendants failed to provide any and/or adequate training, education, and/or information
9 to their personnel, and most particularly to management and supervisory personnel with regard to policies
10 and procedures regarding avoiding unlawful discrimination. Defendants failed to take reasonable steps to
11 prevent unlawful discrimination from being inflicted on Plaintiff, and this resulted in Plaintiff being
12 discriminated against on a constant and continuous basis.

13 198. As a direct and legal result of Defendants' unlawful actions, Plaintiff has suffered economic
14 damages pursuant to Civil Code sections 3281, 3283, and 3333. Plaintiff has and will continue to suffer
15 a loss of earnings and benefits, and other employment benefits and job opportunities. Plaintiff has suffered
16 economic damages because of not being promoted year after year when she should have been, because of
17 being required to exhaust her paid vacation and paid sick leave, because of having to take unpaid leave, and
18 because of having to pay her own medical expenses when Defendants terminated her health insurance, all
19 as a result of Defendants' unlawful actions.

20 199. As a direct and legal result of Defendants' unlawful actions, Plaintiff has also suffered and
21 continues to suffer an exacerbation of her lumbar spine injury and her other physical injuries, conditions
22 and disabilities, pain and suffering, mental anguish, depression, anxiety, loss of self-esteem, anhedonia,
23 humiliation, damage to her reputation, and general emotional distress.

24 200. As a further direct and legal result of the acts and omissions of Defendants, Plaintiff has been
25 forced and/or will be forced to incur expenses for medical care including, but not limited to, treatment by
26 physicians and other health professionals, medical examinations, medical procedures, laboratory costs,
27 prescription medications, and other incidental medical expenses. Plaintiff is therefore entitled to
28 compensatory damages in an amount to be proven at trial.

201. The aforementioned acts by DOE Defendants were willful, wanton, malicious, intentional, oppressive and/or despicable and were done in willful and conscious disregard of the rights, welfare, and safety of Plaintiff, thereby justifying the awarding of punitive and exemplary damages against Defendants DOES 1 through 10 (who are **not** public entities) in an amount to be determined at the time of trial.

202. As a direct result of Defendants' discriminatory acts, Plaintiff has incurred and continues to incur attorneys' fees, expert witness fees, and costs in an amount to be proven, to which she is also entitled, pursuant to Government Code section 12965(b).

SECOND CAUSE OF ACTION

FAILURE TO ENGAGE IN THE INTERACTIVE PROCESS

IN VIOLATION OF THE FAIR EMPLOYMENT AND HOUSING ACT

[Including, specifically, Gov. Code § 12940(n)]

[Against EMPLOYER Defendants and DOE Defendants]

203. Plaintiff realleges and incorporates herein by reference Paragraphs 1 through 164 above, as though fully set forth in this cause of action.

204. At all relevant times herein, despite having abundant notice of Plaintiff's numerous disabilities as alleged above, Defendants knowingly failed and/or refused to engage in a timely, good-faith, interactive process with Plaintiff to determine whether it would be possible to implement effective reasonable accommodations as required by Government Code section 12940(n).

205. Government Code section 12940(n) generally provides that it is an unlawful employment practice for an employer or other entity covered by the FEHA to fail to engage in a timely, good-faith, interactive process with the employee to determine effective reasonable accommodations, if any, for an employee with a known physical or mental disability or known health condition.

206. At all relevant times herein, Plaintiff was a disabled person within the meaning of Government Code sections 12926(m) and 12926.1(b) because she was a person with numerous actual, disabling or potentially disabling in the future, physical disabilities.

207. Plaintiff's physical disabilities include, but are not limited to:

a) A severe musculoskeletal disability of the lumbar spine, which has required surgery, steroid

1 injections, selective root blocks, and numerous other treatments;

- 2 b) Reproductive disabilities including an emergency hysterectomy, an abrupt menopause, and
3 numerous complications of menopause including, but not limited to, needing to sleep up to
4 16 hours per night, memory loss, difficulty concentrating, and inability to think or reason
5 at her normal level;
- 6 c) A skin disability consisting of rashes, itchiness, and skin which was constantly sweaty,
7 causing it to be difficult for her hysterectomy incision to heal, and causing her to develop
8 a postoperative wound infection;
- 9 d) An immunological disability consisting of an unspecified auto-immune disorder, which
10 contributes to Plaintiff's need to sleep up to 16 hours per night;
- 11 e) An endocrine disability consisting of severe hypothyroidism and extreme hormone
12 imbalances, which contributes to Plaintiff's need to sleep up to 16 hours per night; and
- 13 f) A neurological disability consisting of extreme vertigo, dizziness, and disequilibrium which
14 were caused by typhus, and which prevent Plaintiff from being able to drive.

15 208. At all relevant times herein, Defendants knew about Plaintiff's physical limitations.
16 Pursuant to California Code of Regulations section 11069(b)(1) and (2), an employer or other covered entity
17 shall initiate a timely, good-faith, interactive process when the employer or other covered entity otherwise
18 becomes aware of the need for an accommodation through the employee, a third party, or by observation.

19 209. At all relevant times herein, Defendants were aware of and/or had notice of Plaintiff's
20 injuries and/or disabilities and/or need for accommodations pursuant to California Code of Regulations
21 section 11069(b)(1) and (2). Defendants acquired notice through the following, among others:

- 22 a) During the fall of 2010, Plaintiff told Jonathan Galatzan about the lower back pain she was having,
23 especially when sitting in her desk chair at work. (Plaintiff was working from an office in the San
24 Pedro City Hall at this time, so at least she did not have to spend hours driving.)
- 25 b) In early 2011, Plaintiff submitted a prescription for an ergonomic chair and an ergonomic evaluation
26 of her office to the Human Resources Department.
- 27 c) During the spring, summer, and fall of 2011, Plaintiff told Jonathan Galatzan that requiring her to
28 travel to and from downtown Los Angeles, and to work part of the time in a completely non-

1 ergonomic storage office, was exacerbating her lumbar spine disability, due both to the travel and
2 to the completely non-ergonomic storage closet office.

3 d) In November 2011, Plaintiff told Donald Cocek about her back injury, about her pain issues, and
4 about her request for an ergonomic evaluation and an ergonomic chair, which she now needed in
5 two offices (San Pedro and downtown). Plaintiff asked whether there was anything Donald Cocek
6 could do to assist in obtaining these items.

7 e) During late 2011 and throughout 2012, Plaintiff repeatedly attempted to discuss with Donald Cocek
8 the problems with her being forced to work (now full-time) in the downtown non-ergonomic supply
9 closet office.

10 f) During late 2011 and throughout 2012, Plaintiff contacted the Human Resources Department and
11 requested that the ergonomic evaluation (for which she had submitted a prescription in early 2011)
12 be conducted without further delay.

13 g) In June 2013, immediately upon being transferred to the Police Litigation Unit, Plaintiff informed
14 Defendant BRENTE of her lumbar spine disability, and of the accommodations she needed for that
15 disability.

16 h) From 2013 through 2015, Plaintiff complained repeatedly to Defendants (specifically Defendant
17 BRENTE) about the need for an ergonomic chair and for an ergonomic evaluation of her office.
18 Plaintiff also requested permission to work from home part-time as an accommodation for her
19 lumbar spine disability, since the commute from her home in San Pedro to downtown Los Angeles
20 exacerbated her lumbar spine disability.

21 i) On January 6, 2016, having received no response from Defendant BRENTE to her years of requests
22 for accommodations for her lumbar spine disability, Plaintiff sent an email to Wanda Hudson in the
23 Human Resources Department, stating that she had two prescriptions – one for an ergonomic chair
24 and another for an ergonomic analysis of her office. Plaintiff copied Defendant BRENTE on the
25 email to Wanda Hudson and, on January 7, 2016, forwarded the email to Cristina Sarabia, Human
26 Resources Director.

27 j) On or about January 8, 2016, Plaintiff submitted her requests for an ergonomic chair and an
28 ergonomic evaluation to the Occupational Safety and Health Division of Defendant CITY's

Personnel Department, as directed by Cristina Sarabia.

- k) On February 1, 2016, an ergonomic evaluation of Plaintiff's work station was conducted, and on February 16, 2016, Daniela Zaccaro, Ergonomist with the Occupational Safety and Health Division, issued a report in which she listed the equipment which Plaintiff required. This included a chair with a tailbone cut-out, a document holder, a monitor arm, and an adjustable footstool. As Plaintiff's department supervisor, Defendant BRENTÉ was responsible for addressing and carrying out the recommendations in this report, which included ordering, purchasing, and installing equipment as well as making arrangements for recommended modifications to Plaintiff's workstation. Many months passed, however, and Defendant BRENTÉ did none of these things.
- l) On March 11, 2016, Plaintiff requested FMLA/CFRA leave for her reproductive disability.
- m) On April 26, 2016, Plaintiff's physician completed a medical certification in which he stated that (because of Plaintiff's hysterectomy and related issues) Plaintiff would not be able to return to work until May 14, 2016, but that she was able to return to "limited work from home" as of April 18, 2016.
- n) Plaintiff later requested, and was granted, FMLA/CFRA leave through June 5, 2016, for her reproductive disability, auto-immune disability, endocrine disability, and skin disability.
- o) Plaintiff later requested, and was approved, to work from home three hours per day, from April 18 through approximately May 13, 2016, and then six hours per day from approximately May 16 through June 3, 2016.
- p) In July 2016, Plaintiff emailed Wanda Hudson in the Human Resources Department about the fact that five months had passed since she had most recently requested the ergonomic chair and an ergonomic analysis of her office, and she had still not received any of her ergonomic furnishings or equipment. About a week later, several boxes (presumably of ergonomic equipment and furniture) arrived in Plaintiff's office, but no one ever arrived to set the items up. According to the February 16, 2016 report and the February 16, 2016 email to Defendant BRENTÉ, Wanda Hudson, and Plaintiff, the requesting department supervisor (Defendant BRENTÉ) should have made arrangements for the equipment to be installed, but he never did so.
- q) From July 2016 through February 2017, Plaintiff repeatedly complained to Defendant BRENTÉ

- 1 that her ergonomic items had not been installed, but were instead in boxes in her office.
- 2 r) Because of her various disabilities, Plaintiff requested, and was granted, intermittent sick leave for
3 her disabilities from October 2016 through January 2017.
- 4 s) On or about January 17, 2017, Plaintiff gave a prescription for a stand-up desk to Wanda Hudson
5 in the Human Resources Department and to someone in the Occupational Safety and Health
6 Division of the City Personnel Department.
- 7 t) Because of her various disabilities, Plaintiff requested, and was granted, leave for 36 hours in March
8 2017, 46 hours in April 2017, and 99 hours in May 2017.
- 9 u) On or about June 21, 2017, Plaintiff submitted a formal request for reasonable accommodations to
10 the Human Resources Department. In this request, Plaintiff requested reasonable accommodations
11 related to her extreme menopause-related issues (extreme hormone imbalances), hypothyroidism,
12 and un-categorized auto-immune disorder, which were requiring her to sleep 12 to 16 hours per
13 night, preventing her from getting to work at 8:30 a.m. on some days, and preventing her from
14 working eight hours per day on some days.
- 15 v) On July 11, 2017, Plaintiff met with David Trujillo and Margaret Shikibu, both of the Human
16 Resources Department, regarding her request for reasonable accommodations. The Human
17 Resources Department granted Plaintiff a so-called temporary accommodation by changing her
18 schedule to 10:00 a.m. to 6:00 p.m. This was not at all sufficient, as discussed above.
- 19 w) Because of her various disabilities, Plaintiff requested, and was granted, leave from July 23 through
20 August 5, 2017 since (receiving very little assistance from Defendants) that was the only way she
21 could accommodate her various disabilities.
- 22 x) In or about October 2017, Plaintiff had a discussion with Defendant BRENTE regarding the fact
23 that Plaintiff's ergonomic equipment and furnishings had still not been provided (or had been
24 provided and were still in boxes).
- 25 y) Because of her various disabilities, Plaintiff requested, and was granted, leave for much of October
26 2017.
- 27 z) On November 8, 2017, in a meeting with Defendant BRENTE, union representative Oscar
28 Winslow, and a woman (name unknown) from the Personnel or Human Resources Department,

1 Plaintiff described in detail all the health issues which were making it difficult for her to work
2 regular hours, relating to her various physical disabilities. She explained that much of the time
3 when she was late to work, it was because she required so much sleep because of the menopause
4 (hormone imbalances) and hypothyroidism symptoms. She explained that other times it was
5 because her back pain was so severe, she had to be up for a while and take pain medication before
6 she could begin her commute to work. She again requested reasonable accommodations for her
7 physical disabilities.

8 aa) Because of her various disabilities, Plaintiff requested, and was granted, sick leave from November
9 27, 2017 through January 20, 2018, then intermittent FMLA/CFRA leave from January 21, 2018
10 through February 11, 2018.

11 bb) On February 12, 2018, Plaintiff reported to work and took with her three prescriptions (which were
12 all dated February 7, 2018, and which were for an ergonomic keyboard drawer, an ergonomic chair,
13 and a stand-up desk) from Dr. Proano and a note from Dr. Proano, indicating Plaintiff was able to
14 return to work on February 12, 2018, but only to “light” work duties, and only with the following
15 restrictions: “no bending, stooping, lifting, sit no more than 1 hour, standing no more than 1 hour.”
16 She submitted these four documents to the Human Resources Department on February 12, 2018.

17 cc) Also during February 2018, Plaintiff complained to David Trujillo that there were still boxes of
18 ergonomic equipment in her office which had never been opened and installed. She told David
19 Trujillo that her back would start aching within an hour of her sitting at her desk, and she was afraid
20 sitting in that chair would seriously exacerbate her spinal disability.

21 dd) On February 14, 2018, Plaintiff reminded the Human Resources Department that she had originally
22 started requesting an ergonomic evaluation process in early 2011, the ergonomic evaluation had
23 finally been performed on February 1, 2016, and, although the boxed ergonomic items were finally
24 delivered to her office in July 2016, none of the equipment had been set up.

25 ee) Also on February 14, 2018, Plaintiff met with David Trujillo to discuss accommodation of the work
26 restrictions which were listed in the February 7, 2018 note from her doctor (no bending, stooping,
27 or lifting; no sitting for more than an hour at a time and no standing for more than an hour at a
28 time). Defendants never responded to Plaintiff regarding what could be done to arrange for the

requested accommodations, and there were no efforts by Defendants to engage in a timely, good-faith interactive process with Plaintiff.

ff) Beginning February 27, 2018, Plaintiff was unable to work because of her lumbar spine disability. She told both the Human Resources Department and Defendant BRENTE she could not work because her ergonomic furniture and equipment had still not been installed, and that working in her work station in its then-current condition was greatly exacerbating her lumbar spine disability. Plaintiff requested to work from home as a reasonable accommodation, but this request was later denied. Defendants made no effort to engage in a timely, good-faith interactive process regarding Plaintiff's need for reasonable accommodations.

gg) After Plaintiff was denied the ability to work from home, she was forced to request FMLA/CFRA leave, which was eventually granted retroactively, with a March 8, 2018 start date. The leave was through April 9, 2018.

hh) Plaintiff returned to work on April 13, 2018, but on April 25, 2018, was in so much pain from her lumbar spine disability that she requested to take a medical leave of absence as a reasonable accommodation, but months went by without her receiving a response. Defendants made no effort to engage in a timely, good-faith, interactive process concerning Plaintiff's requested reasonable accommodation.

ii) On June 8, 2018, Plaintiff had another conversation with David Trujillo regarding the ergonomic equipment and furnishings. David Trujillo told Plaintiff that her ergonomic equipment (which had first been prescribed by Plaintiff's doctor **seven years** earlier) had been "ordered," and that Human Resources was awaiting shipment. David Trujillo gave no indication regarding when the equipment was expected to arrive.

jj) On October 16, 2018, Plaintiff's physician wrote a note stating that she could return to work with the following restrictions/accommodations, "no bending, stooping, standing for more than 1 hour. Stand up desk and ergonomic chair [required]." This obviously meant Plaintiff would require reasonable accommodations. Defendants made no effort to engage in a timely, good-faith, interactive process regarding Plaintiff's need for reasonable accommodations.

kk) Also on October 16, 2018, Plaintiff submitted a complaint to EMPLOYER Defendants' Office of

Discrimination Complaint Resolution. In that complaint, Plaintiff alleged discrimination based on disability (among other things), and further alleged she had been subjected to a variety of harassing and discriminatory treatment, including several adverse employment actions.

ll) Plaintiff returned to work on October 17, 2018, only to find that the electric high-adjustable desk and electric high-adjustable chair which had been ordered had still not arrived. Plaintiff told both David Trujillo and Defendant BRENTE about this, but Defendants still made no effort to engage in a timely, good-faith, interactive process regarding Plaintiff's need for reasonable accommodations.

mm) Plaintiff worked at least sporadically from October 17, 2018 through October 31, 2018, during which she repeatedly told David Trujillo and Defendant BRENTE that she was in excruciating pain from her lumbar spine disability because of the lack of ergonomic furniture, as well as because of her need to sleep 10 hours per day due to her immunological and/or endocrine disabilities. Still, Defendants made no effort to engage in a timely, good-faith, interactive process regarding Plaintiff's need for reasonable accommodations.

nn) In November and December 2018 and January 2019, Plaintiff submitted reports from U.S. HealthWorks to EMPLOYER Defendants and Defendant BRENTE regarding her neurological disability consisting of vertigo resulting from typhus. (U.S. HealthWorks designated Plaintiff temporarily partially disabled and unable to drive or operate heavy machinery from December 20, 2018 through January 21, 2019.) The result of Plaintiff submitting these reports was for David Trujillo (on December 21, 2018) and then Vivienne Swanigan (on December 31, 2018) sending letters stating that Plaintiff was "absent without leave," and threatening loss of Plaintiff's job, and then for EMPLOYER Defendants to terminate Plaintiff's health insurance.

oo) On January 17, 2019, Vivienne Swanigan sent a letter stating that there was "no staff, no equipment, no authorization, and no funds" and "no plan" to fumigate City Hall East. Plaintiff alleges based on information and belief that Defendant FEUER directed Vivienne Swanigan to send the January 17, 2019 letter. Defendants made no effort to engage in a timely, good-faith, interactive process regarding Plaintiff's need for reasonable accommodations.

pp) It was (and is) the position of Plaintiff and her attorney that EMPLOYER Defendants have a legal

1 duty to reasonably accommodate Plaintiff's commute-related limitations. Plaintiff repeatedly
2 requested of David Trujillo, and Plaintiff's attorney repeatedly requested of Vivienne Swanigan, that
3 Plaintiff's disability of not being able to drive because of the vertigo, dizziness, and disequilibrium
4 which were caused by typhus be reasonably accommodated. One such communication was in a
5 January 22, 2019 letter from Plaintiff's attorney to Vivienne Swanigan. Vivienne Swanigan's
6 response, in a letter dated January 25, 2019, was that she would not be communicating with
7 Plaintiff's attorney any further. Plaintiff alleges based on information and belief that Defendant
8 FEUER directed Vivienne Swanigan to send the January 25, 2019 letter. Again, Defendants made
9 no effort to engage in a timely, good-faith, interactive process regarding Plaintiff's need for
10 reasonable accommodations.

11 qq) The next day, on January 31, 2019, David Trujillo sent an email to Plaintiff in which he stated
12 "driving or operating heavy equipment" were not "essential functions" of Plaintiff's Deputy City
13 Attorney position, and that Plaintiff was expected to report for work on Monday, February 4, 2019.
14 In fact, Defendant BRENTE had stated in his June 12, 2017 memo titled "Essential Functions of
15 Deputy City Attorneys in Police Litigation Unit":

16 It should be noted that taking and defending depositions often involves travel
17 both in southern California and across the United States . . . the duties
18 include defending the case at trial, which involves travel to and from court
19 (by walking or car) . . . While most of the cases are venued in downtown
Los Angeles, some federal cases are assigned to the Santa Ana and Riverside
courthouses, and some superior court cases are assigned to the San Fernando
Valley or other branch courthouses.

20 Rather than make an effort to engage in a timely, good-faith, interactive process regarding Plaintiff's need
21 for reasonable accommodations, Defendants made untrue statements about Plaintiff's essential job
22 functions.

23 rr) On February 6, 2019, Defendants demoted Plaintiff to a position at Pacific Office, Criminal Branch,
24 where she would handle misdemeanor arraignments at the LAX courthouse. This was clearly a
25 change to an inferior position, with much less status than the position Plaintiff had held with the
26 Police Litigation Unit, and was therefore an involuntary and wrongful demotion. Although
27 Defendants claimed this was an accommodation even though it did absolutely nothing to
28 accommodate Plaintiff's driving restriction or the ongoing problems with her workstation which

1 was supposed to have designed to accommodate her lumbar spine disability. (This happened on
2 February 6, 2019.) Then, in what can only be seen as an attempt to further demean, irritate, and
3 upset Plaintiff, on February 8, EMPLOYER Defendants sent Plaintiff a letter telling her where she
4 was to **park** when she arrived at her new assignment at Pacific Office, Criminal Branch, even
5 though they knew the City-designated doctors are stated Plaintiff was not able to drive. This was
6 clearly not an effort by Defendants to engage in a timely, good-faith, interactive process regarding
7 Plaintiff's need for reasonable accommodations.

8 ss) From November 2018 through the present, EMPLOYER Defendants refused to engage in a timely,
9 good-faith, interactive process regarding Plaintiff's disability of not being able to drive because of
10 the vertigo, dizziness, and disequilibrium (neurological disabilities which were caused by typhus).
11 Plaintiff has proposed numerous possible accommodations, such as EMPLOYER Defendants
12 reimbursing her for taking an Uber or taxi, EMPLOYER Defendants allowing Plaintiff to work from
13 home, EMPLOYER Defendants allowing Plaintiff to work in a City office in San Pedro (where
14 Plaintiff lives). EMPLOYER Defendants have refused to discuss any of these proposals, even when
15 the law which requires EMPLOYER Defendants to accommodate Plaintiff's driving restriction was
16 pointed out to them (specifically, to Vivienne Swanigan).

17 tt) Plaintiff repeatedly requested that the building where she works (City Hall East) be fumigated
18 before she returns to work. Even though Defendant CITY began fumigating other buildings in
19 October 2018, EMPLOYER Defendants have failed and refused to fumigate City Hall East.
20 Plaintiff has pointed out that, because of her auto-immune disorder, she is at greater risk than others
21 for re-contracting typhus, but EMPLOYER Defendants have still failed and refused to fumigate City
22 Hall East. Defendants have also failed to engage in a timely, good-faith, interactive process
23 regarding Plaintiff's need for reasonable accommodations (which is why Plaintiff felt forced to
24 begin talking to the media).

25 uu) Additionally, Defendants have still failed to provide the accommodations Plaintiff has been
26 requesting (and her doctors have been ordering) for years. Defendants refuse to provide Plaintiff
27 with a electric high-adjustable desk and electric high-adjustable chair. Being required to bend over
28 and manually raise and lower a desk a chair several times per day is counterproductive to

1 accommodating Plaintiff's lumbar spine disability. (To say Defendants "failed" to provide
2 reasonable accommodations is an understatement. Defendants flat-out refused to provide
3 reasonable accommodations, and repeatedly aggravated and manipulated Plaintiff by making her
4 obtain additional prescriptions from doctors and participate in multiple ergonomic evaluations, then
5 did things like ship some ergonomic items, but never bother to take them out of the boxes and set
6 them up.) Plaintiff is attempting to continue an interactive dialogue with Defendants regarding
7 these much needed accommodations, but has not be successful in accomplishing anything.

8 210. Defendants were well aware of Plaintiff's physical disabilities and of Plaintiff's need for
9 reasonable accommodations.

10 211. At all relevant times herein, Plaintiff was willing to participate in an interactive process to
11 determine whether reasonable accommodations could be made, and in fact repeatedly requested reasonable
12 accommodations, including providing certifications and notes from her medical providers regarding work
13 restrictions and accommodations which were needed.

14 212. Despite their duties to do so, Defendants failed to timely initiate and thereafter participate
15 in a timely, good-faith, interactive process with Plaintiff to determine whether reasonable accommodations
16 could be made.¹⁶

17 213. Defendants' failure to engage in a timely, good-faith, interactive process **over a period of**
18 **seven years** was a direct cause and a substantial factor in causing Plaintiff's harm.

19 214. As a direct and legal result of Defendants' unlawful acts and omissions, Plaintiff has suffered
20 economic damages pursuant to Civil Code sections 3281, 3283, and 3333. Plaintiff has and will continue
21 to suffer a loss of earnings and benefits, and other employment benefits and job opportunities. Plaintiff has
22 suffered economic damages because of not being promoted year after year when she should have been,

23
24 ¹⁶The only accommodations which were provided consisted of allowing Plaintiff to take medical
25 leave (causing her to completely deplete her accrued sick leave and vacation), and providing the so-called
26 accommodation on July 11, 2017, involving changing Plaintiff's work schedule to 10:00 a.m. to 6:00 p.m.
27 Only a couple of the smaller prescribed ergonomic items were un-boxed and set up in Plaintiff's office. The
28 electric high-adjustable desk and electric high-adjustable chair were supposedly ordered but, to Plaintiff's
knowledge, never arrived. No accommodations were made by Plaintiff's vertigo which was caused by
typhus. Instead, Plaintiff was demoted to a position which presented the same commuting problems as her
original position.

1 because of being required to exhaust her paid vacation and paid sick leave, because of having to take unpaid
2 leave, and because of having to pay her own medical expenses when Defendants terminated her health
3 insurance, all as a result of Defendants' unlawful actions.

4 215. As a direct and legal result of Defendants' unlawful acts and omissions, Plaintiff has also
5 suffered and continues to suffer an exacerbation of her lumbar spine injury and her other physical injuries,
6 conditions and disabilities, pain and suffering, mental anguish, depression, anxiety, loss of self-esteem,
7 anhedonia, humiliation, damage to her reputation, and general emotional distress.

8 216. As a further direct and legal result of the acts and omissions of Defendants, Plaintiff has been
9 forced and/or will be forced to incur expenses for medical care including, but not limited to, treatment by
10 physicians and other health professionals, medical examinations, medical procedures, laboratory costs,
11 prescription medications, and other incidental medical expenses. Plaintiff is therefore entitled to
12 compensatory damages in an amount to be proven at trial.

13 217. The aforementioned acts by DOE Defendants were willful, wanton, malicious, intentional,
14 oppressive and/or despicable and were done in willful and conscious disregard of the rights, welfare, and
15 safety of Plaintiff, thereby justifying the awarding of punitive and exemplary damages against Defendants
16 DOES 1 through 10 (who are **not** public entities) in an amount to be determined at the time of trial.

17 218. As a direct result of Defendants' unlawful acts and omissions, Plaintiff has incurred and
18 continues to incur attorneys' fees, expert witness fees, and costs in an amount to be proven, to which she
19 is also entitled, pursuant to Government Code section 12965(b).

21 **THIRD CAUSE OF ACTION**

22 **FAILURE TO ACCOMMODATE PHYSICAL DISABILITIES** 23 **IN VIOLATION OF THE FAIR EMPLOYMENT AND HOUSING ACT**

24 **[Including, specifically, Gov. Code § 12940(m)]**

25 **[Against EMPLOYER Defendants and DOE Defendants]**

26 219. Plaintiff realleges and incorporates herein by reference Paragraphs 1 through 164 above, as
27 though fully set forth in this cause of action.

28 220. Throughout Plaintiff's employment, Defendants failed to reasonably accommodate

1 Plaintiff's injuries and/or disabilities as required by Government Code section 12940(m).

2 221. Government Code section 12940(m) provides that it is an unlawful employment practice for
3 an employer or other entity covered under the FEHA to fail to make reasonable accommodations for the
4 known physical disability of an applicant or employee.

5 222. At all relevant times herein, Plaintiff was an actual disabled or potentially disabled person
6 within the meaning of Government Code sections 12926(m) and 12926.1(b), because she was a person with
7 numerous actual, disabling or potentially disabling in the future, physical disabilities including, but not
8 limited to:

- 9 a) A severe musculoskeletal disability of the lumbar spine, which has required surgery, steroid
10 injections, selective root blocks, and numerous other treatments;
- 11 b) Reproductive disabilities including an emergency hysterectomy, an abrupt menopause, and
12 numerous complications of menopause including, but not limited to, needing to sleep up to
13 16 hours per night, memory loss, difficulty concentrating, and inability to think or reason
14 at her normal level;
- 15 c) A skin disability consisting of rashes, itchiness, and skin which was constantly sweaty,
16 causing it to be difficult for her hysterectomy incision to heal, and causing her to develop
17 a postoperative wound infection;
- 18 d) An immunological disability consisting of an unspecified auto-immune disorder, which
19 contributes to Plaintiff's need to sleep up to 16 hours per night;
- 20 e) An endocrine disability consisting of severe hypothyroidism and extreme hormone
21 imbalances, which contributes to Plaintiff's need to sleep up to 16 hours per night; and
- 22 f) A neurological disability consisting of extreme vertigo, dizziness, and disequilibrium which
23 were caused by typhus, and which prevent Plaintiff from being able to drive.

24 223. At all relevant times herein, Defendants had notice of Plaintiff's disabilities, need for
25 accommodations, need for protected medical leave, and need for medical treatment. Defendants acquired
26 notice through the following, among others:

- 27 a) During the fall of 2010, Plaintiff told Jonathan Galatzan about the lower back pain she was having,
28 especially when sitting in her desk chair at work. (Plaintiff was working from an office in the San

Pedro City Hall at this time, so at least she did not have to spend hours driving.)

- b) In early 2011, Plaintiff submitted a prescription for an ergonomic chair and an ergonomic evaluation of her office to the Human Resources Department.
- c) During the spring, summer, and fall of 2011, Plaintiff told Jonathan Galatzan that requiring her to travel to and from downtown Los Angeles, and to work part of the time in a completely non-ergonomic storage office, was exacerbating her lumbar spine disability, due both to the travel and to the completely non-ergonomic storage closet office.
- d) In November 2011, Plaintiff told Donald Cocek about her back injury, about her pain issues, and about her request for an ergonomic evaluation and an ergonomic chair, which she now needed in two offices (San Pedro and downtown). Plaintiff asked whether there was anything Donald Cocek could do to assist in obtaining these items.
- e) During late 2011 and throughout 2012, Plaintiff repeatedly attempted to discuss with Donald Cocek the problems with her being forced to work (now full-time) in the downtown non-ergonomic supply closet office.
- f) During late 2011 and throughout 2012, Plaintiff contacted the Human Resources Department and requested that the ergonomic evaluation (for which she had submitted a prescription in early 2011) be conducted without further delay.
- g) In June 2013, immediately upon being transferred to the Police Litigation Unit, Plaintiff informed Defendant BRENTE of her lumbar spine disability, and of the accommodations she needed for that disability.
- h) From 2013 through 2015, Plaintiff complained repeatedly to Defendants (specifically Defendant BRENTE) about the need for an ergonomic chair and for an ergonomic evaluation of her office. Plaintiff also requested permission to work from home part-time as an accommodation for her lumbar spine disability, since the commute from her home in San Pedro to downtown Los Angeles exacerbated her lumbar spine disability.
- i) On January 6, 2016, having received no response from Defendant BRENTE to her years of requests for accommodations for her lumbar spine disability, Plaintiff sent an email to Wanda Hudson in the Human Resources Department, stating that she had two prescriptions – one for an ergonomic chair

1 and another for an ergonomic analysis of her office. Plaintiff copied Defendant BRENTE on the
2 email to Wanda Hudson and, on January 7, 2016, forwarded the email to Cristina Sarabia, Human
3 Resources Director.

4 j) On or about January 8, 2016, Plaintiff submitted her requests for an ergonomic chair and an
5 ergonomic evaluation to the Occupational Safety and Health Division of Defendant CITY's
6 Personnel Department, as directed by Cristina Sarabia.

7 k) On February 1, 2016, an ergonomic evaluation of Plaintiff's work station was conducted, and on
8 February 16, 2016, Daniela Zaccaro, Ergonomist with the Occupational Safety and Health Division,
9 issued a report in which she listed the equipment which Plaintiff required. This included a chair
10 with a tailbone cut-out, a document holder, a monitor arm, and an adjustable footstool. As
11 Plaintiff's department supervisor, Defendant BRENTE was responsible for addressing and carrying
12 out the recommendations in this report, which included ordering, purchasing, and installing
13 equipment as well as making arrangements for recommended modifications to Plaintiff's
14 workstation. Many months passed, however, and Defendant BRENTE did none of these things.

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16 m) On April 26, 2016, Plaintiff's physician completed a medical certification in which he stated that
17 (because of Plaintiff's hysterectomy and related issues) Plaintiff would not be able to return to work
18 until May 14, 2016, but that she was able to return to "limited work from home" as of April 18,
19 2016.

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21 reproductive disability, auto-immune disability, endocrine disability, and skin disability.

22 o) Plaintiff later requested, and was approved, to work from home three hours per day, from April 18
23 through approximately May 13, 2016, and then six hours per day from approximately May 16
24 through June 3, 2016.

25 p) In July 2016, Plaintiff emailed Wanda Hudson in the Human Resources Department about the fact
26 that five months had passed since she had most recently requested the ergonomic chair and an
27 ergonomic analysis of her office, and she had still not received any of her ergonomic furnishings
28 or equipment. About a week later, several boxes (presumably of ergonomic equipment and

furniture) arrived in Plaintiff's office, but no one ever arrived to set the items up. According to the February 16, 2016 report and the February 16, 2016 email to Defendant BRENTE, Wanda Hudson, and Plaintiff, the requesting department supervisor (Defendant BRENTE) should have made arrangements for the equipment to be installed, but he never did so.

q) From July 2016 through February 2017, Plaintiff repeatedly complained to Defendant BRENTE that her ergonomic items had not been installed, but were instead in boxes in her office.

r) Because of her various disabilities, Plaintiff requested, and was granted, intermittent sick leave for her disabilities from October 2016 through January 2017.

s) On or about January 17, 2017, Plaintiff gave a prescription for a stand-up desk to Wanda Hudson in the Human Resources Department and to someone in the Occupational Safety and Health Division of the City Personnel Department.

t) Because of her various disabilities, Plaintiff requested, and was granted, leave for 36 hours in March 2017, 46 hours in April 2017, and 99 hours in May 2017.

u) On or about June 21, 2017, Plaintiff submitted a formal request for reasonable accommodations to the Human Resources Department. In this request, Plaintiff requested reasonable accommodations related to her extreme menopause-related issues (extreme hormone imbalances), hypothyroidism, and un-categorized auto-immune disorder, which were requiring her to sleep 12 to 16 hours per night, preventing her from getting to work at 8:30 a.m. on some days, and preventing her from working eight hours per day on some days.

v) On July 11, 2017, Plaintiff met with David Trujillo and Margaret Shikibu, both of the Human Resources Department, regarding her request for reasonable accommodations. The Human Resources Department granted Plaintiff a so-called temporary accommodation by changing her schedule to 10:00 a.m. to 6:00 p.m. This was not at all sufficient, as discussed above.

w) Because of her various disabilities, Plaintiff requested, and was granted, leave from July 23 through August 5, 2017 since (receiving very little assistance from Defendants) that was the only way she could accommodate her various disabilities.

x) In or about October 2017, Plaintiff had a discussion with Defendant BRENTE regarding the fact that Plaintiff's ergonomic equipment and furnishings had still not been provided (or had been

provided and were still in boxes).

y) Because of her various disabilities, Plaintiff requested, and was granted, leave for much of October 2017.

z) On November 8, 2017, in a meeting with Defendant BRENTÉ, union representative Oscar Winslow, and a woman (name unknown) from the Personnel or Human Resources Department, Plaintiff described in detail all the health issues which were making it difficult for her to work regular hours, relating to her various physical disabilities. She explained that much of the time when she was late to work, it was because she required so much sleep because of the menopause (extreme hormone imbalances) and hypothyroidism symptoms. She explained that other times it was because her back pain was so severe, she had to be up for a while and take pain medication before she could begin her commute to work. She again requested reasonable accommodations for her physical disabilities.

aa) Because of her various disabilities, Plaintiff requested, and was granted, sick leave from November 27, 2017 through January 20, 2018, then intermittent FMLA/CFRA leave from January 21, 2018 through February 11, 2018.

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cc) Also during February 2018, Plaintiff complained to David Trujillo that there were still boxes of ergonomic equipment in her office which had never been opened and installed. She told David Trujillo that her back would start aching within an hour of her sitting at her desk, and she was afraid sitting in that chair would seriously exacerbate her spinal disability.

dd) On February 14, 2018, Plaintiff reminded the Human Resources Department that she had originally started requesting an ergonomic evaluation process in early 2011, the ergonomic evaluation had finally been performed on February 1, 2016, and, although the boxed ergonomic items were finally

delivered to her office in July 2016, none of the equipment had been set up.

ee) Also on February 14, 2018, Plaintiff met with David Trujillo to discuss accommodation of the work restrictions which were listed in the February 7, 2018 note from her doctor (no bending, stooping, or lifting; no sitting for more than an hour at a time and no standing for more than an hour at a time). Defendants never responded to Plaintiff regarding what could be done to arrange for the requested accommodations, and there were no efforts by Defendants to engage in a timely, good-faith, interactive process with Plaintiff.

ff) Beginning February 27, 2018, Plaintiff was unable to work because of her lumbar spine disability. She told both the Human Resources Department and Defendant BRENTE she could not work because her ergonomic furniture and equipment had still not been installed, and that working in her work station in its then-current condition was greatly exacerbating her lumbar spine disability. Plaintiff requested to work from home as a reasonable accommodation, but this request was later denied.

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hh) Plaintiff returned to work on April 13, 2018, but on April 25, 2018, was in so much pain from her lumbar spine disability that she requested to take a medical leave of absence as a reasonable accommodation, but months went by without her receiving a response.

ii) On June 8, 2018, Plaintiff had another conversation with David Trujillo regarding the ergonomic equipment and furnishings. David Trujillo told Plaintiff that her ergonomic equipment (which had first been prescribed by Plaintiff's doctor **seven years** earlier) had been "ordered," and that Human Resources was awaiting shipment. David Trujillo gave no indication regarding when the equipment was expected to arrive.

jj) On October 16, 2018, Plaintiff's physician wrote a note stating that she could return to work with the following restrictions/accommodations, "no bending, stooping, standing for more than 1 hour. Stand up desk and ergonomic chair [required]." This obviously meant Plaintiff would require reasonable accommodations.

- 1 kk) Also on October 16, 2018, Plaintiff submitted a complaint to EMPLOYER Defendants' Office of
2 Discrimination Complaint Resolution. In that complaint, Plaintiff alleged discrimination based on
3 disability (among other things), and further alleged she had been subjected to a variety of harassing
4 and discriminatory treatment, including several adverse employment actions.
- 5 ll) Plaintiff returned to work on October 17, 2018, only to find that the electric high-adjustable desk
6 and electric high-adjustable chair which had been ordered had still not arrived. Plaintiff told both
7 David Trujillo and Defendant BRENTE about this, but Defendants still made no effort to engage
8 in a timely, good-faith, interactive process regarding Plaintiff's need for reasonable
9 accommodations.
- 10 mm) Plaintiff worked at least sporadically from October 17, 2018 through October 31, 2018, during
11 which she repeatedly told David Trujillo and Defendant BRENTE that she was in excruciating pain
12 from her lumbar spine disability because of the lack of ergonomic furniture, as well as because of
13 her need to sleep 10 hours per day due to her immunological and/or endocrine disabilities.
- 14 nn) In November and December 2018, Plaintiff submitted numerous reports from U.S. HealthWorks
15 to EMPLOYER Defendants and Defendant BRENTE regarding her neurological disability
16 consisting of vertigo resulting from typhus, and of her status as "temporarily partially disabled"
17 because she was not allowed to drive. The result of Plaintiff submitting these reports was for David
18 Trujillo and then Vivienne Swanigan to send letters stating that Plaintiff was "absent without leave,"
19 and threatening loss of Plaintiff's job.
- 20 oo) On December 1, 2018, Plaintiff filed a workers' compensation claim with Defendant CITY
21 ATTORNEY'S OFFICE for in typhus disease. On her workers' compensation complaint form,
22 Plaintiff wrote:
- 23 There is a typhus outbreak in downtown LA. Sometime the week of
24 10/16/18 while at my office I was bitten by one or more fleas. On November
25 1, 2018, I became violently ill. On 11/27/18, my primary care physician
26 phoned me and informed me I tested positive for typhus.
- 27 Under "What can the City of Los Angeles do to help prevent similar
28 accidents/incidents?" Plaintiff wrote "Fumigate City Hall East for fleas-
immediately. This is a horrible condition."
- pp) During January and February 2019, U.S. HealthWorks continued designating Plaintiff temporarily

1 partially disabled from December 20, 2018 through February 11, 2019.)

2 qq) Having obtained new accommodation from Defendants for her temporarily partial disability which
3 has been caused by the typhus, and any indication that EMPLOYER Defendants had any plans to
4 fumigate City Hall East, Plaintiff began speaking to the media. Plaintiff was interviewed by many
5 television stations, radio stations, and newspapers as discussed in detail above.

6 rr) Plaintiff's first interview with media was her January 29, 2019 interview with Joel Grover of NBC
7 4 local news regarding her typhus. On January 30, 2019, EMPLOYER Defendants were contacted
8 by Joel Grover.

9 ss) The next day, on January 31, 2019, Defendants did the exact opposite thing from accommodating
10 Plaintiff's disability. David Trujillo sent an email to Plaintiff in which he stated "driving or
11 operating heavy equipment" were not "essential functions" of Plaintiff's Deputy City Attorney
12 position, and that Plaintiff was expected to report for work on Monday, February 4, 2019. In fact,
13 Defendant BRENTE had stated in his June 12, 2017 memo titled "Essential Functions of Deputy
14 City Attorneys in Police Litigation Unit":

15 It should be noted that taking and defending depositions often involves travel
16 both in southern California and across the United States the duties
17 include defending the case at trial, which involves travel to and from court
18 (by walking or car) While most of the cases are venued in downtown
Los Angeles, some federal cases are assigned to the Santa Ana and Riverside
courthouses, and some superior court cases are assigned to the San Fernando
Valley or other branch courthouses.

19 224. Also on January 31, 2019, Plaintiff appeared on NBC Channel 4 News at 11:00 p.m. where
20 she spoke about the typhus she had contracted while working at City Hall East.

21 225. As Plaintiff continued to speak out about the typhus investigation at City Hall for the next
22 few weeks, and about the injuries she had endured, Defendants continued not only to fail to accommodate
23 Plaintiff's disability, but also retaliated against Plaintiff.

24 226. On February 6, 2019 (only three workdays after EMPLOYER Defendants were served with
25 the Complaint in this matter, and within days of Plaintiff speaking to various media about contracting
26 typhus while working at City Hall East) David Trujillo sent Plaintiff an email notifying her that she was
27 expected to report to her new supervisor Julie San Juan at her new work location at the Pacific Office,
28 Criminal Branch (11701 S. La Cienega Boulevard, Los Angeles 90045) on February 11 (even though

1 Plaintiff had previously submitted documents from U.S. HealthWorks stating that she was “temporarily
2 partially disabled” and was “not to drive or operate heavy machinery” through February 11, 2019). In this
3 position, Plaintiff would be handling misdemeanor arraignments at the Pacific Office, Criminal Branch.
4 A change in assignment from working in the Police Litigation Unit, where she was defending Defendant
5 CITY in million-dollar cases, to a position handling misdemeanor arraignments (which is an entry-level job)
6 was humiliating and demeaning. This was clearly a change to an inferior position, with much less status
7 than the position Plaintiff had held with the Police Litigation Unit, and was therefore an involuntary and
8 wrongful demotion. Additionally, this demotion did nothing to address the accommodation Plaintiff needed
9 relating to her inability to drive due to vertigo caused by the typhus. Plaintiff alleges that this February 6,
10 2019 demotion was in direct retaliation for her continued complaining, both internally and to the media,
11 about the typhus epidemic and, specifically, at City Hall East. Plaintiff further alleges on information and
12 belief that Defendant FEUER directed Plaintiff’s demotion from working in the Police Litigation Unit to
13 handling misdemeanor arraignments at the LAX courthouse for the Pacific Office, Criminal Branch.

14 227. Also on February 7, 2019, Plaintiff was featured on KTLA (Channel 5), again speaking out
15 about the typhus epidemic and about the fact that she contracted typhus while working at City Hall East.
16 That same day, Plaintiff was featured on the front page of the *Daily Breeze*, in an article titled “Deputy LA
17 City Attorney in San Pedro goes public with typhus bout prompting City Hall to take notice.”

18 228. The very next day (February 8, 2019), knowing Plaintiff had previously submitted
19 documents from U.S. HealthWorks stating that she was “temporarily partially disabled” and was “**not to**
20 **drive** or operate heavy machinery” **through February 11, 2019**, David Trujillo sent Plaintiff an email with
21 instructions regarding where she was to **park on February 11**, when she reported for her new (demoted)
22 assignment handling misdemeanor arraignments at the Pacific Office, Criminal Branch.

23 229. On February 22, 2019, the Acting Human Resources Director, Stephanie B. Ybarra, sent
24 Plaintiff a letter advising her that her “request for a personal medical leave of absence extension” had been
25 “approved as a reasonable accommodation for the continuous period of February 11, 2019 through March
26 7, 2019.” In a total denial of their part in causing Plaintiff’s injuries, EMPLOYER Defendants continue
27 to use the terms “personal medical leave of absence” and “reasonable accommodation” even though
28 Plaintiff was unable to work because of an on-the-job injury, Plaintiff had filed a workers’ compensation

claim, and the City-designated infectious disease specialist had stated Plaintiff was unable to work. The letter was also emailed to Julie San Juan, Plaintiff's new supervisor at her new assignment at the Pacific Office, Criminal Branch.

230. To date, neither Plaintiff's conditions relating to the typhus, Plaintiff's lumbar spine disability, or any of Plaintiff's other physical disabilities have been reasonable accommodated by EMPLOYER Defendants. As a result of EMPLOYER Defendants' refusal to reasonably accommodate Plaintiff's physical disabilities, Plaintiff as been forced to use accrued paid vacation, accrued paid sick leave, and even to go without pay.

231. At all relevant times herein, Plaintiff was able to perform the essential job duties with reasonable accommodations for her physical disabilities yet Defendants refused to accommodate Plaintiff by:

- a) Refusing to allow her to work from home (even though many other deputy city attorneys in the Police Litigation Unit do so).
- b) Refused to allow her to work from an office in San Pedro.
- c) Refused to providing ergonomic equipment and furnishings **which her doctor ordered in 2011**.
- d) Refused to allow Plaintiff a flexible schedule, even though virtually every other deputy city attorney in the Police Litigation Unit had a flexible schedule.
- e) Refused Plaintiff "accommodations" which were simply the usual job benefits for other deputy city attorneys in the Police Litigation Unit.

232. Plaintiff was harmed as a result of Defendants' failure to provide reasonable accommodations.

233. Defendants' failure to provide reasonable accommodations was a direct cause and a substantial factor in causing Plaintiff's harm.

234. As a direct and legal result of Defendants' unlawful acts and omissions, Plaintiff has suffered economic damages pursuant to Civil Code sections 3281, 3283, and 3333. Plaintiff has and will continue to suffer a loss of earnings and benefits, and other employment benefits and job opportunities. Plaintiff has suffered economic damages because of not being promoted year after year when she should have been, because of being required to exhaust her paid vacation and paid sick leave, because of having to take unpaid

1 leave, and because of having to pay her own medical expenses when Defendants terminated her health
2 insurance, all as a result of Defendants' unlawful actions.

3 235. As a direct and legal result of Defendants' unlawful acts and omissions, Plaintiff has also
4 suffered and continues to suffer an exacerbation of her lumbar spine injury and her other physical injuries,
5 conditions and disabilities, pain and suffering, mental anguish, depression, anxiety, loss of self-esteem,
6 anhedonia, humiliation, damage to her reputation, and general emotional distress.

7 236. As a further direct and legal result of the acts and omissions of Defendants, Plaintiff has been
8 forced and/or will be forced to incur expenses for medical care including, but not limited to, treatment by
9 physicians and other health professionals, medical examinations, medical procedures, laboratory costs,
10 prescription medications, and other incidental medical expenses. Plaintiff is therefore entitled to
11 compensatory damages in an amount to be proven at trial.

12 237. The aforementioned acts by DOE Defendants were willful, wanton, malicious, intentional,
13 oppressive and/or despicable and were done in willful and conscious disregard of the rights, welfare, and
14 safety of Plaintiff, thereby justifying the awarding of punitive and exemplary damages against Defendants
15 DOES 1 through 10 (who are **not** public entities) in an amount to be determined at the time of trial.

16 238. As a direct result of Defendants' unlawful acts and omissions, Plaintiff has incurred and
17 continues to incur attorneys' fees, expert witness fees, and costs in an amount to be proven, to which she
18 is also entitled, pursuant to Government Code section 12965(b).

19
20 **FOURTH CAUSE OF ACTION**

21 **HARASSMENT ON THE BASIS OF PHYSICAL DISABILITIES IN VIOLATION OF THE**
22 **FAIR EMPLOYMENT AND HOUSING ACT**

23 **[Including, specifically, Gov. Code § 12940(j)]**

24 **[Against All Defendants]**

25 239. Plaintiff realleges and incorporates herein by reference Paragraphs 1 through 164 above, as
26 though fully set forth in this cause of action.

27 240. At all relevant times for purposes of this Complaint, the FEHA was in full force and effect
28 and binding on Defendants. The FEHA provides that it is an unlawful employment practice:

1 (j) (1) For an employer . . . or any other person, because of . . . physical
2 disability . . . , to harass an employee Harassment of an employee . . .
3 by an employee, other than an agent or supervisor, shall be unlawful if the
4 entity, or its agents or supervisors, knows or should have known of this
5 conduct and fails to take immediate and appropriate corrective action. . . .
6 An entity shall take all reasonable steps to prevent harassment from
7 occurring. Loss of tangible job benefits shall not be necessary in order to
8 establish harassment.

9 (2) The provisions of this subdivision are Declaratory of existing
10 law, except for the new duties imposed on employers with regard to
11 harassment.

12 (3) An employee of an entity subject to this subdivision is personally
13 liable for any harassment prohibited by this section that is perpetrated by the
14 employee, regardless of whether the employer or covered entity knows or
15 should have known of the conduct and fails to take immediate and
16 appropriate corrective action.

17 (4) (A) For purposes of this subdivision only, “employer” means any
18 person regularly employing one or more persons or regularly receiving the
19 services of one or more persons providing services pursuant to a contract, or
20 any person acting as an agent of an employer, directly or indirectly, the state,
21 or any political or civil subdivision of the state, and cities. The definition of
22 “employer” in subdivision (d) of Section 12926 applies to all provisions of
23 this section other than this subdivision.

24 [Gov. Code § 12940(j)].

25 241. As defined by the FEHA, “physical disability” includes:

- 26 1) Having any physiological disease, disorder, condition, cosmetic
27 disfigurement, or anatomical loss that does both of the following:
 - 28 A) Affects one or more of the following body systems:
neurological, immunological, musculoskeletal . . . ,
reproductive, . . . skin, and endocrine.
 - B) Limits a major life activity. . . .
- 2) Any other health impairment not described in paragraph (1) that
requires special education or related services.
- 3) Having a record or history of a disease, disorder, condition, cosmetic
disfigurement, anatomical loss, or health impairment described in
paragraph (1) or (2), which is known to the employer or other entity
covered by this part.
- 4) Being regarded or treated by the employer or other entity covered by
this part as having, or having had, any physical condition that makes
achievement of a major life activity difficult.
- 5) Being regarded or treated by the employer or other entity covered by
this part as having, or having had, a disease, disorder, condition,

1 cosmetic disfigurement, anatomical loss, or health impairment that
2 has no present disabling effect but may become a physical disability
3 as described in paragraph (1) or (2).

4 [Gov. Code § 12926(m).]

5 242. At all relevant times herein, Plaintiff was a disabled person within the meaning of
6 Government Code sections 12926(m) and 12926.1(b) because she was a person with numerous actual
7 physical impairments which were each disabling, or potentially disabling in the future.

8 243. At all relevant times herein, as a disabled employee, Plaintiff was within a class protected
9 by the FEHA.

10 244. Plaintiff suffers from numerous physical disabilities including, but not limited to:

- 11 a) A severe musculoskeletal disability of the lumbar spine, which has required surgery, steroid
12 injections, selective root blocks, and numerous other treatments;
- 13 b) Reproductive disabilities including an emergency hysterectomy, an abrupt menopause, and
14 numerous complications of menopause including, but not limited to, needing to sleep up to
15 16 hours per night, memory loss, difficulty concentrating, and inability to think or reason
16 at her normal level;
- 17 c) A skin disability consisting of rashes, itchiness, and skin which was constantly sweaty,
18 causing it to be difficult for her hysterectomy incision to heal, and causing her to develop
19 a postoperative wound infection;
- 20 d) An immunological disability consisting of an unspecified auto-immune disorder, which
21 contributes to Plaintiff's need to sleep up to 16 hours per night;
- 22 e) An endocrine disability consisting of severe hypothyroidism and extreme hormone
23 imbalances, which contributes to Plaintiff's need to sleep up to 16 hours per night; and
- 24 f) A neurological disability consisting of extreme vertigo, dizziness, and disequilibrium which
25 were caused by typhus, and which prevent Plaintiff from being able to drive.

26 245. At all relevant times herein, Defendants had notice of Plaintiff's disabilities, need for
27 accommodations, need for protected medical leave, and need for medical treatment.

28 246. Defendants knew about Plaintiff's lumbar spine disability beginning in late 2009/early 2010,

1 because Plaintiff told both her immediate supervisor, Sonja Dawson, and the Human Resources Department
2 that she had been diagnosed with severe lumbar radiculopathy and was receiving lumbar epidural steroid
3 injections and selective nerve root blocks. In March 2010, Plaintiff underwent spinal surgery, and she
4 notified her immediate supervisor and the Human Resources Department of this at the time.

5 247. In September 2010, Plaintiff informed her new supervisor in the Housing Enforcement
6 Department of her lumbar spine disability, and about the pain she was having especially when sitting in her
7 desk chair at work (at her office in the San Pedro City Hall). Over the next few months, Plaintiff repeatedly
8 told Jonathan Galatzan about the pain she was experiencing while sitting. Defendants harassed Plaintiff
9 based on her disability by failing to initiate a timely, good-faith, interactive process or do anything else
10 regarding Plaintiff's complaints of pain caused by sitting at her desk.

11 248. Over the years, Plaintiff told all her immediate supervisors, and numerous other people in
12 Defendant CITY's Human Resources and Personnel Departments (including the Occupational Safety and
13 Health Division of Defendant CITY's Personnel Department) about her lumbar spine disability and her need
14 for accommodations. For example, Plaintiff told Donald Cocek (starting in about November 2011),
15 Defendant BRENTE (starting in about June 2013), Wanda Hudson (starting in about January 2016), Daniela
16 Zaccaro (starting in about February 2016), Cristina Sarabia (starting in about June 2016), and David Trujillo
17 (starting in about July 2017), among others, about her lumbar spine disability and her need for
18 accommodations.

19 249. Plaintiff also told numerous other persons who were agents and/or employees of
20 EMPLOYER Defendants about her need for work restrictions and for reasonable accommodations for her
21 lumbar spine (musculoskeletal) disability starting in late 2009 or early 2010, and continuing to the present.
22 She even submitted prescriptions from her doctors relating to such things as bending, stooping, lifting, and
23 sitting for more than one hour, standing for more than one hour, needing various ergonomic furniture and
24 equipment, and needing an ergonomic evaluation of her office.

25 250. Defendants knew about Plaintiff's reproductive disabilities beginning in March 2016, when
26 Plaintiff informed Defendant BRENTE (Plaintiff's immediate supervisor at the time), Cristina Sarabia, and
27 Wanda Hudson that she was having an emergency hysterectomy. Plaintiff told Defendant BRENTE and
28 Wanda Hudson about the exhaustion and need for 16 hours of sleep per night, and about the memory loss,

1 difficulty concentrating, and inability to think or reason at her normal level, starting in about May 2016.
2 Plaintiff discussed her reproductive disabilities with David Trujillo (starting in about July 2017), and with
3 other employees of Defendants starting in May 2016 and continuing to the present. Defendants also knew
4 about Plaintiff's need for reasonable accommodations, and about her need for work restrictions, permission
5 to work from home, a flexible work schedule, reduced hours, and extended leave.

6 251. Defendants also knew about Plaintiff's skin disabilities, consisting of rashes, itchiness, and
7 skin which was constantly sweaty (causing delayed healing of her hysterectomy incision), beginning in
8 about May 2016, when she told Defendant BRENTE and Wanda Hudson about these medical issues.
9 Plaintiff also discussed her skin disabilities with David Trujillo (starting in about July 2017 and continuing
10 to the present), and with other employees of Defendants starting in May 2016 (and continuing to the
11 present).

12 252. Defendants also knew about Plaintiff's endocrine disability, consisting of severe
13 hypothyroidism and hormone imbalance, beginning in about May 2016, when she told Defendant BRENTE
14 and Wanda Hudson about this disability. Plaintiff also discussed her endocrine disability with David
15 Trujillo (starting in about July 2017 and continuing to the present), and with other employees of Defendants
16 starting in May 2016 (and continuing to the present). Plaintiff told Defendants that, at least partly because
17 of her endocrine disability, she was needing to sleep up to 16 hours per night, and requested an
18 accommodation for this in the form of protected leave and/or a reduced work schedule and/or permission
19 to work from home.

20 253. Defendants also knew about Plaintiff's immunological disability, consisting of an
21 unspecified auto-immune disorder, beginning in about May 2016, when she told Defendant BRENTE and
22 Wanda Hudson about this disability. Plaintiff also discussed her endocrine disability with David Trujillo
23 (starting in about July 2017 and continuing to the present), and with other employees of Defendants starting
24 in May 2016 (and continuing to the present).

25 254. With notice of Plaintiff's numerous disabilities, on a severe and pervasive basis, beginning
26 in or around approximately Spring 2011, continuing to the present, all Defendants, including Defendant
27 BRENTE, have harassed Plaintiff due to and substantially motivated by Plaintiff's actual disabilities, need
28 for accommodations and attempts to initiate a timely, good-faith, interactive process, and/or need for

1 protected finite medical leave through the following actions, among others:

- 2 a) Jonathan Galatzan harassed Plaintiff by assigning Plaintiff additional work consisting of code
3 violation cases which required her to travel to downtown Los Angeles on a regular basis. (This
4 occurred in approximately Spring 2011.)
- 5 b) Jonathan Galatzan harassed Plaintiff by assigning Plaintiff to a work area in downtown Los Angeles
6 which consisted of a desk in a storage closet, which was **less** ergonomically correct than her office
7 in San Pedro, and with a chair which was even more uncomfortable than her chair in San Pedro.
8 (This occurred in approximately Spring 2011.)
- 9 c) Jonathan Galatzan harassed Plaintiff by issuing a Notice to Correct Deficiencies to Plaintiff, in
10 which he accused her of failing to file four code violation cases on time, even though filing delays
11 had been a longstanding problem within the Housing Enforcement Department for many years
12 before Plaintiff was assigned to the unit. (This occurred on October 14, 2011.)
- 13 d) Donald Cocek harassed Plaintiff by changing Plaintiff's job duties further, so that she had to work
14 full-time doing work which was not supposed to be any part of her job, and to do so from a storage
15 closet in downtown Los Angeles. There was no legitimate business reason for doing this. It was
16 done purely to harass Plaintiff. (This occurred in approximately November 2011.)
- 17 e) Donald Cocek harassed Plaintiff by failing to assign cases to other attorneys while Plaintiff was on
18 extended medical leave in order to set Plaintiff up for discipline. There was obviously no legitimate
19 business reason for Donald Cocek to ignore cases for which he was ultimately responsible. It was
20 done purely to harass Plaintiff and to set her up for disciplinary action. (This occurred from
21 approximately October 2012 to approximately January 29, 2013.)
- 22 f) Donald Cocek harassed Plaintiff by giving Plaintiff a Notice to Correct Deficiencies for failing to
23 file cases which he had assigned to her **after** she went out on approved leave, and the deadlines for
24 which had passed **before** she returned from leave. (This occurred in January 2013.)
- 25 g) Defendants harassed Plaintiff by failing to recommend Plaintiff for promotion or to promote
26 Plaintiff when she was transferred to the Police Litigation Unit, even though this position involves
27 longer hours than Plaintiff's previous position, and a significant amount of responsibility. (This
28 occurred in June 2013.)

- 1 h) Defendants harassed Plaintiff by failing and refusing to reasonably accommodate Plaintiff's
2 repeated requests for reasonable accommodations. (This occurred from June 2013 to the present.)
- 3 i) Defendant BRENTE harassed Plaintiff by failing to recommend Plaintiff for promotion, and
4 EMPLOYER Defendants harassed Plaintiff by failing to promote Plaintiff on her anniversary date
5 in March 2014.
- 6 j) Defendant BRENTE harassed Plaintiff by failing to recommend Plaintiff for promotion, and
7 EMPLOYER Defendants harassed Plaintiff by failing to promote Plaintiff on her anniversary date
8 in March 2015.
- 9 k) Defendant BRENTE harassed Plaintiff **for years** by failing to order, purchase, and/or install
10 Plaintiff's ergonomic furniture and equipment, even though it had been made clear to him by
11 Daniela Zaccaro, Ergonomist with the Occupational Safety and Health Division, that it was **his**
12 **responsibility** to order, purchase, and install Plaintiff's ergonomic equipment and furnishings.
13 (This occurred from February 16, 2016 to the present.)
- 14 l) Defendant BRENTE harassed Plaintiff by failing to recommend Plaintiff for promotion, and
15 EMPLOYER harassed Plaintiff by Defendants failing to promote Plaintiff on her anniversary date
16 in March 2016.
- 17 m) Defendant BRENTE harassed Plaintiff by failing to recommend Plaintiff for promotion, and
18 EMPLOYER Defendants harassed Plaintiff by failing to promote Plaintiff on her anniversary date
19 in March 2017.
- 20 n) Defendant BRENTE harassed Plaintiff by changing the official description of Plaintiff's essential
21 job functions to make it appear she could not perform the essential job functions for her position.
22 Defendant BRENTE knew very well that adding physical functions to Plaintiff's formal list of
23 essential job functions would complicate Plaintiff's attempts to return to work with reasonable
24 accommodations. (This occurred on June 12, 2017.)
- 25 o) Defendant BRENTE harassed Plaintiff by criticizing Plaintiff for missing work and not working
26 from 8:30 a.m. to 5:00 p.m., even though Plaintiff had told Defendant BRENTE about her medical
27 issues in detail (which legally she was not required to do), and had explained to him the reasons why
28 she had to take time off work for so many medical appointments, and had to sleep 12 to 16 hours

per night, making it very difficult to arrive at work by 8:30 a.m. and to work for eight hours per day. There was not even any business reason which required Plaintiff to be physically at the office from 8:30 a.m. to 5:00 p.m. (This occurred on June 21, 2017.) Additionally, it is quite common in the Police Litigation Unit for attorneys to have flex time.

p) Defendant BRENTE harassed Plaintiff by repeatedly failing and refusing to assign another attorney to cover Plaintiff's cases while she was on leave for her disabilities, causing some filing deadlines to be missed on cases which were assigned to Plaintiff. (This occurred from summer 2017 through February 12, 2018, and again from February 27, 2018 through October 16, 2018.)

q) Defendants harassed Plaintiff by not only failing to recommend for promotion or promote Plaintiff, but even withholding/denying Plaintiff's anniversary date step. (This occurred in March 2018.)

r) Defendant BRENTE harassed Plaintiff by issuing a formal Notice to Correct Deficiencies to Plaintiff, which dwelled **solely** on difficulties she was having at work due to her physical disabilities and serious health conditions, despite the fact that: a) Plaintiff had been on FMLA/CFRA leave from approximately March 12 through June 12, 2010 for her spinal surgery, b) Plaintiff had been on FMLA/CFRA leave from approximately March 11, 2016 to June 6, 2016 for her endometriosis and fibroid uterus, and then for the emergency hysterectomy and the complications relating to that surgery, c) Plaintiff had communicated constantly with Defendant BRENTE regarding her various physical disabilities and serious health conditions, and had answered many more questions regarding the details of her serious health conditions than she was legally required to, d) Plaintiff had been attempting to get ergonomic furniture which would at least lessen her back pain **since early 2011**, e) Defendant BRENTE was the person responsible for having the ergonomic items installed but the items had been sitting in boxes in Plaintiff's office since July 2016, f) Plaintiff had submitted a formal request for reasonable accommodations to Human Resources and met with Human Resources about this, and g) Plaintiff had filed a workers' compensation claim on August 14, 2017. (This occurred on November 7, 2017.)

s) Defendants, including Defendant BRENTE, harassed Plaintiff by summoning Plaintiff to the office to receive the November 7, 2017 Notice to Correct Deficiencies, **while** Plaintiff was at the doctor to obtain a note which Vivienne Swanigan had said was required. The meeting was attended by

1 Plaintiff, Defendant BRENTE, union representative Oscar Winslow, and a woman from Personnel
2 (name unknown). During this meeting, Plaintiff described in detail all the health issues which were
3 making it difficult for her to work regular hours related to her severe menopause (hormone
4 imbalances), her hypothyroidism, and her back injury. She explained that much of the time when
5 she was late to work, it was because she required so much sleep because of the menopause
6 symptoms (extreme hormone imbalances), combined with her hypothyroidism. She again requested
7 reasonable accommodations for all these physical disabilities, such as permission to work from
8 home, a flexible work schedule, reduced hours, extended (protected) leave, and ergonomic
9 improvements to her office equipment and furnishings. Rather than discuss what reasonable
10 accommodations might be possible, Defendant BRENTE said to Plaintiff, right in front of Oscar
11 Winslow and the woman from Personnel, “We all know the workers’ comp claim is bullshit.” This
12 was an accusation of Plaintiff committing an illegal act (workers’ compensation fraud). (This
13 occurred on November 8, 2017.)¹⁷

- 14 t) EMPLOYER Defendants harassed Plaintiff by telling her she had to completely re-start the
15 ergonomic evaluation process, even though there were unopened boxes of ergonomic items in
16 Plaintiff’s office. (This occurred on February 14, 2018.)
- 17 u) Defendant BRENTE harassed Plaintiff by admonishing her for not keeping up with her work while
18 she was in excruciating pain and attempting to work from home. (This occurred on March 8, 2018.)
- 19 v) Defendants harassed Plaintiff by failing and/or refusing, year after year as discussed above, to
20 promote Plaintiff (and even denying/withholding her anniversary step in March 2018), even while
21 non-disabled attorneys with less experience, who were performing substantially similar or even less
22 complex and less demanding work, were promoted. (This began almost immediately after
23 Defendants learned of Plaintiff’s musculoskeletal disability and has continued to the present.)
- 24 w) Defendant BRENTE harassed Plaintiff by failing and/or refusing to recommend Plaintiff for
25 promotion in 2015, 2016, 2017, or 2018 (and even withholding/denying Plaintiff her anniversary
26 step in March 2018), even though he recommended that non-disabled attorneys with less experience,
27

28 ¹⁷Plaintiff actually prevailed in that workers’ compensation claim, so apparently it was not “bullshit.”

1 who were performing substantially similar or even less complex and less demanding work, be
2 promoted.

3 x) Defendants harassed Plaintiff by telling Plaintiff that her ergonomic equipment (which had first
4 been prescribed by Plaintiff's doctor **seven years** earlier) had been "ordered," and that Human
5 Resources was awaiting shipment, and giving her no indication regarding when the equipment was
6 expected to arrive. (This occurred on June 8, 2018.)

7 y) Defendants harassed Plaintiff by terminating Plaintiff's health benefits (without notice) while she
8 had still not received any response to her April 25, 2018 request to take a FMLA/CFRA leave of
9 absence, and the ergonomic equipment and furnishings had still not been installed in her office,
10 which would have allowed her to return to work. (This occurred on June 9, 2018.)

11 z) EMPLOYER Defendants harassed Plaintiff by completely ignoring the 36-page letter sent to Zna
12 Portlock Houston, Special Counsel Personnel Standards and Employee Engagement (Office of the
13 Los Angeles City Attorney). (This letter was sent on October 15, 2018, and was actually delivered
14 to Defendant CITY ATTORNEY'S OFFICE on October 16, 2018.)

15 aa) Defendants harassed Plaintiff by David Trujillo and then Vivienne Swanigan to send letters stating
16 that Plaintiff was "absent without leave," and threatening loss of Plaintiff's job right after Plaintiff
17 submitted numerous reports from U.S. HealthWorks regarding her neurological disability consisting
18 of vertigo resulting from typhus.

19 bb) Defendants harassed Plaintiff by failing and refusing to pay Plaintiff for her 2019 holiday and sick
20 leave.

21 cc) Defendants harassed Plaintiff by refusing Plaintiff's driving restriction despite received numerous
22 notices from City-designated doctors saying Plaintiff was not to drive or operative heavy machinery.

23 dd) Defendants harassed Plaintiff by refusing to fumigate City Hall or City Hall East even after Plaintiff
24 contracted typhus there.

25 ee) Defendants changed Plaintiff's health insurance from Anthem to Kaiser Permanente HMO without
26 permission or notice.

27 ff) Defendants harassed Plaintiff by, in early December 2018, changing Plaintiff's health insurance
28 from Anthem, to Kaiser Permanente, without anyone even giving her any notice of this change.

(Plaintiff found out when she attempted to get a prescription refilled at the pharmacy.)

gg) Defendants harassed Plaintiff by, on January 1, 2019, terminating Plaintiff's health insurance.

hh) Defendants harassed and retaliated against Plaintiff by demoting her to Pacific Office, Criminal Branch, where she would be handling misdemeanor arraignments (an entry-level task), and pretending the demotion was an "accommodation" for Plaintiff. Plaintiff alleges information and believe that Defendant BRENTE was one of the people responsible for this transfer.

ii) Defendants harassed Plaintiff by telling her "request for a personal medical leave of absence extension" had been "approved as a reasonable accommodation for the continuous period of February 11, 2019 through March 7, 2019," totally denying their part in causing Plaintiff's injuries. EMPLOYER Defendants continue to use the terms "personal medical leave of absence" and "reasonable accommodation" even though Plaintiff was unable to work because of an on-the-job injury, Plaintiff had filed a workers' compensation claim, and the City-designated infectious disease specialist had stated Plaintiff was unable to work. The letter was also emailed to Julie San Juan, Plaintiff's new supervisor at her new assignment at the Pacific Office, Criminal Branch.

ii) Defendants harassed Plaintiff by ordering her to report for work at Pacific Office, Criminal Branch, even though they knew the City-designated infectious disease specialist – _____ Sokolov, had excused Plaintiff from work through February 11.

jj) Defendants harassed Plaintiff by sending her detailed instructions regarding where she was supposed to **park** at Pacific Office, Criminal Branch, even though they knew **Plaintiff was not allowed to drive.**

kk) Defendants (including Defendant BRENTE) harassed Plaintiff by refusing to allow her to work from home (even though many other deputy city attorneys in the Police Litigation Unit do so, and even though Defendant BRENTE had insisted that Plaintiff do so).

ll) Defendants (including Defendant BRENTE) harassed Plaintiff by refusing to allow Plaintiff to work from a location in or near San Pedro (even though it could easily have been done).

mm) Defendants (including Defendant BRENTE) harassed Plaintiff by refusing to allow her to work a flexible work schedule (even though many other deputy city attorneys in the Police Litigation Unit do so).

1 nn) Defendants harassed Plaintiff by refusing to providing ergonomic equipment and furnishings **which**
2 **her doctor ordered in 2011.**

3 oo) Refused Plaintiff “accommodations” which were simply the usual job benefits for other deputy city
4 attorneys in the Police Litigation Unit.

5 pp) Defendants harassed Plaintiff by refusing to participate in a timely, good-faith, interactive process
6 regarding Plaintiff’s requests for reasonable accommodations.

7 qq) Defendants harassed Plaintiff by failing and refusing to conduct a timely, proper, and/or complete
8 investigation of the disability harassment to which Plaintiff was subjected, and about which Plaintiff
9 had complained.

10 255. Plaintiff was harmed as a result of Defendants’ severe and pervasive harassment of her,
11 which was based on Plaintiff’s physical disabilities.

12 256. Defendants’ severe and pervasive harassment of Plaintiff was a direct cause and a substantial
13 factor in causing Plaintiff’s harm.

14 257. In doing the acts alleged herein, Defendants, and each of them, were substantially motivated
15 by Plaintiff’s actual disabilities, need for accommodations, and/or need for legally protected finite medical
16 leave.

17 258. As a direct and legal result of Defendants’ unlawful harassment and related actions and
18 omissions, Plaintiff has suffered economic damages pursuant to Civil Code sections 3281, 3283, and 3333.
19 Plaintiff has and will continue to suffer a loss of earnings and benefits, and other employment benefits and
20 job opportunities. Plaintiff has suffered economic damages because of not being promoted year after year
21 when she should have been, because of being required to exhaust her paid vacation and paid sick leave,
22 because of having to take unpaid leave, and because of having to pay her own medical expenses when
23 Defendants terminated her health insurance, all as a result of Defendants’ unlawful actions.

24 259. As a direct and legal result of Defendants’ unlawful acts and omissions, Plaintiff has also
25 suffered and continues to suffer an exacerbation of her lumbar spine injury and her other physical injuries,
26 conditions and disabilities, pain and suffering, mental anguish, depression, anxiety, loss of self-esteem,
27 anhedonia, humiliation, damage to her reputation, and general emotional distress.

28 260. As a further direct and legal result of the acts and omissions of Defendants, Plaintiff has been

1 forced and/or will be forced to incur expenses for medical care including, but not limited to, treatment by
2 physicians and other health professionals, medical examinations, medical procedures, laboratory costs,
3 prescription medications, and other incidental medical expenses. Plaintiff is therefore entitled to
4 compensatory damages in an amount to be proven at trial.

5 261. The aforementioned acts by DOE Defendants and Defendant BRENTE were willful, wanton,
6 malicious, intentional, oppressive and/or despicable and were done in willful and conscious disregard of
7 the rights, welfare, and safety of Plaintiff, thereby justifying the awarding of punitive and exemplary
8 damages against Defendants DOES 1 through 10 (who are **not** public entities) and Defendant BRENTE in
9 an amount to be determined at the time of trial.

10 262. As a direct result of Defendants' unlawful acts and omissions, Plaintiff has incurred and
11 continues to incur attorneys' fees, expert witness fees, and costs in an amount to be proven, to which she
12 is also entitled, pursuant to Government Code section 12965(b).

13
14 **FIFTH CAUSE OF ACTION**
15 **DISCRIMINATION ON THE BASIS OF SEX**
16 **IN VIOLATION OF THE FAIR EMPLOYMENT AND HOUSING ACT**
17 **[Including, specifically, Gov. Code § 12940(a)]**
18 **[Against EMPLOYER Defendants and DOE Defendants]**

19 263. Plaintiff realleges and incorporates herein by reference Paragraphs 1 through 164 above, as
20 though fully set forth in this cause of action.

21 264. At all relevant times for purposes of this Complaint, the FEHA was in full force and effect
22 and binding on Defendants. The FEHA provides:

23 It is an unlawful employment practice, unless based upon a bona fide
24 occupational qualification . . . (a) For an employer, because of the . . . sex .
25 . . of any person, to . . . discriminate against the person in compensation or
26 in terms, conditions, or privileges of employment.

[Gov. Code § 12940(a).]

27 265. At all relevant times herein, as a female employee, Plaintiff was within a class protected by
28 the FEHA.

1 266. At all relevant times herein, Plaintiff was qualified for and/or competently performed the
2 positions she held with Defendants.

3 267. As a result of, and substantially motivated by, Plaintiff's sex, Defendants, and each of them,
4 treated Plaintiff differently, disparately, and negatively. Defendants subjected Plaintiff to discriminatory
5 treatment and/or adverse employment actions as described herein.

6 268. Defendants engaged in unlawful employment practices in violation of the FEHA by
7 discriminating against Plaintiff based on her sex, and these practices were constant and continuous. The
8 discrimination started in spring 2011, while Plaintiff was working in the Housing Enforcement Unit, and
9 reporting directly to Jonathan Galatzan. Because of Plaintiff's sex, Jonathan Galatzan changed Plaintiff's
10 job assignment so that she was required to work part of the time from a storage closet in downtown Los
11 Angeles, doing work which was not originally part of her job and which she did not want to do. This
12 increased Plaintiff's job responsibilities and workload to substantially exceed the job responsibilities and
13 workload of male employees in comparable positions, and with comparable job experience and skills. The
14 discrimination continued and included, but was not limited to, the following:

- 15 a) Donald Cocek changing Plaintiff's job duties further, so that she had to work full-time doing work
16 which was not supposed to be any part of her job, and to do so from a storage closet in downtown
17 Los Angeles. Meanwhile, the part of Plaintiff's position which she had enjoyed (and which was
18 actually what she was transferred into the position to do), involving mediating disputes between
19 landlords and tenants related to landlords allegedly not complying with the Los Angeles Rent
20 Stabilization Ordinance, was assigned to a male Deputy City Attorney who already had a position.
21 There was no legitimate business reason for doing this. (This occurred in approximately November
22 2011.)
- 23 b) Donald Cocek staring at Plaintiff's breasts every time she attempted to have a private conversation
24 with him (and even sometimes when other people were present). (This occurred during late 2011
25 and 2012.)
- 26 c) Donald Cocek failing to assign cases to other attorneys while Plaintiff was on extended medical
27 leave in order to set Plaintiff up for discipline. Plaintiff alleges on information and belief that
28 Donald Cocek did not act in this fashion regarding male employees in comparable positions, and

1 with comparable job experience and skills who were out on extended medical leave. (This occurred
2 from approximately October 2012 to approximately January 29, 2013.)

3 d) Donald Cocek giving Plaintiff a Notice to Correct Deficiencies for failing to file cases which he had
4 assigned to her **after** she went out on approved leave, and the deadlines for which had passed
5 **before** she returned from leave. Plaintiff alleges on information and belief that Donald Cocek did
6 not act in this fashion regarding male employees in comparable positions, and with comparable job
7 experience and skills who were out on extended medical leave. (This occurred in January 2013.)

8 e) Defendants failing and/or refusing to promote Plaintiff to a rank of Deputy City Attorney IV, Step
9 C, or higher in June 2013, when she was transferred to the Police Litigation Unit. In the Police
10 Litigation Unit, Plaintiff defends multimillion-dollar claims against Defendant CITY in both state
11 and federal court trials. This position involves longer hours than Plaintiff's previous position, and
12 a significant amount of responsibility, and Plaintiff should have been promoted to at least a Deputy
13 City Attorney IV, Step C, when she was transferred to this position, but she was not, as a direct
14 result of her sex. Plaintiff alleges on information and belief that male attorneys with less
15 experience, who were performing substantially similar or even less complex and less demanding
16 work, were promoted to ranks of Deputy City Attorney IV, Step C, or higher.

17 f) Defendants failing and/or refusing to promote Plaintiff to a rank of Deputy City Attorney IV, Step
18 D, because of her sex in March 2014. Plaintiff alleges on information and belief that male attorneys
19 with less experience, who were performing substantially similar or even less complex and less
20 demanding work, were promoted to ranks of Deputy City Attorney IV, Step D, or higher.

21 g) Defendants failing and/or refusing to promote Plaintiff to a rank of Deputy City Attorney IV, Step
22 E, because of her sex in March 2015. Plaintiff alleges on information and belief that male attorneys
23 with less experience, who were performing substantially similar or even less complex and less
24 demanding work, were promoted to ranks of Deputy City Attorney IV, Step E2, or higher.

25 h) Defendant BRENTE failing to order, purchase, and/or install Plaintiff's ergonomic furniture and
26 equipment, even though the ergonomic equipment of a male attorney in the same department was
27 quickly purchased and installed. (This occurred from February 16, 2016 to the present.)

28 i) Defendants failing and/or refusing to promote Plaintiff to a rank of Deputy City Attorney IV, Step

1 F, because of her sex in March 2016. Plaintiff alleges on information and belief that male attorneys
2 with less experience, who were performing substantially similar or even less complex and less
3 demanding work, were promoted to ranks of Deputy City Attorney IV, Step F, or higher.

4 j) Defendants failing and/or refusing to promote Plaintiff to a rank of Deputy City Attorney IV, Step
5 10, because of her sex in March 2017. Plaintiff alleges on information and belief that male
6 attorneys with less experience, who were performing substantially similar or even less complex and
7 less demanding work, were promoted to ranks of Deputy City Attorney IV, Step 10, or higher.

8 k) Defendant BRENTE changing the official description of Plaintiff's essential job functions to make
9 it appear she could not perform the essential job functions for her position. Plaintiff alleges on
10 information and belief that Defendant BRENTE did not act in this fashion regarding male
11 employees in comparable positions, and with comparable job experience and skills. (This occurred
12 on June 12, 2017.)

13 l) Defendant BRENTE asking Plaintiff why others in the Police Litigation Unit (referring to a male
14 attorney) were able to get ergonomic equipment with ease, and she had so much trouble. (This
15 occurred in approximately October 2017.)

16 m) Defendants failing and/or refusing to promote Plaintiff to a rank of Deputy City Attorney IV, Step
17 11, because of her sex in March 2018, and even denying/withholding her anniversary step. Plaintiff
18 alleges on information and belief that male attorneys with less experience, who were performing
19 substantially similar or even less complex and less demanding work, were promoted to ranks of
20 Deputy City Attorney IV, Step 11, or higher.

21 n) Defendants refusing to allow Plaintiff to have a flexible work schedule, or to sometimes work from
22 home. Plaintiff alleges on information and belief that Defendants allowed male employees in
23 comparable positions, and with comparable job experience and skills, to have flexible work
24 schedules, basically setting their own hours, and to work from home when they chose. (This
25 occurred from 2013 to the present.)

26 o) Defendant BRENTE criticizing Plaintiff for missing work and not working from 8:30 a.m. to 5:00
27 p.m., even though Plaintiff had told Defendant BRENTE about her medical issues in detail (which
28 legally she was not required to do), and had explained to him the reasons why she had to take time

1 off work for so many medical appointments, and had to sleep 12 to 16 hours per night, making it
2 very difficult to arrive at work by 8:30 a.m. and to work for eight hours per day. There was not even
3 any business reason which required Plaintiff to be physically at the office from 8:30 a.m. to 5:00
4 p.m. Plaintiff alleges on information and belief that Defendant BRENTE allowed male employees
5 in comparable positions, and with comparable job experience and skills, to have flexible work
6 schedules, basically setting their own hours, and to work from home when they chose. (This
7 occurred on June 21, 2017.)

8 p) Defendant BRENTE repeatedly failing and refusing to assign another attorney to cover Plaintiff's
9 cases while she was on leave for her disabilities, causing some filing deadlines to be missed, and
10 forcing Plaintiff to work from home while she was on sick leave. Plaintiff alleges on information
11 and belief that Defendant BRENTE did not act in this fashion regarding male employees in
12 comparable positions, and with comparable job experience and skills. (This occurred from summer
13 2017 through February 12, 2018, and again from February 27, 2018 through October 16, 2018.)

14 q) Defendant BRENTE issuing a formal Notice to Correct Deficiencies to Plaintiff, which dwelled
15 **solely** on difficulties she was having at work due to her physical disabilities and serious health
16 conditions, despite the fact that she had been requesting reasonable accommodations for years.
17 Plaintiff alleges on information and belief that Defendant BRENTE did not act in this fashion
18 regarding male employees in comparable positions, and with comparable job experience and skills.
19 (This occurred on November 7, 2017.)

20 r) Defendant BRENTE referring to Plaintiff's workers' compensation claim as "bullshit." Plaintiff
21 alleges on information and belief that Defendant BRENTE did not act in this fashion regarding male
22 employees in comparable positions, and with comparable job experience and skills. (This occurred
23 on November 8, 2017.)

24 s) Defendant BRENTE admonishing Plaintiff for not keeping up with her work while she was in
25 excruciating pain and attempting to work from home. This was clearly discrimination and
26 harassment, as there was no legitimate business reason to admonish an employee who, in spite of
27 excruciating pain, was trying to keep up with the work which was assigned to her. Plaintiff alleges
28 on information and belief that Defendant BRENTE did not act in this fashion regarding male

employees in comparable positions, and with comparable job experience and skills. (This occurred on March 8, 2018.)

t) Defendants failing and/or refusing, year after year as discussed above, to promote Plaintiff, even while male attorneys with less experience, who were performing substantially similar or even less complex and less demanding work, were promoted. (This occurred from at least June 2013, when Plaintiff was transferred to the Police Litigation Unit, to the present.)

u) Defendant BRENTE failing and/or refusing to recommend Plaintiff for promotion in 2015, 2016, 2017, or 2018, even though he recommended that male attorneys with less experience, who were performing substantially similar or even less complex and less demanding work, be promoted.

v) Defendants telling Plaintiff that her ergonomic equipment (which had first been prescribed by Plaintiff's doctor **seven years** earlier) had been "ordered," and that Human Resources was awaiting shipment, and giving her no indication regarding when the equipment was expected to arrive. Plaintiff alleges on information and belief that Defendants did not act in this fashion regarding male employees in comparable positions, and with comparable job experience and skills. Delaying providing Plaintiff with her ergonomic equipment for **years**, and then requiring her to go through a second ergonomic evaluation, and to wait many months longer, was clearly done to discriminate against and harass Plaintiff, as there was no legitimate business reason for doing so. (This occurred on June 8, 2018.)

w) Defendants terminating Plaintiff's health benefits (without notice) while she had still not received any response to her April 25, 2018 request to take a FMLA/CFRA leave of absence, and the ergonomic equipment and furnishings had still not been installed in her office, which would have allowed her to return to work. Plaintiff alleges on information and belief that Defendants did not act in this fashion regarding male employees in comparable positions, and with comparable job experience and skills. (This occurred on June 9, 2018.)

x) Defendants threatening to terminate Plaintiff only three hours after she advised them of work restrictions imposed by U.S. HealthWorks, which is the occupational medicine provider designated by EMPLOYER Defendants. Plaintiff alleges on information and belief that Defendants did not act in this fashion regarding male employees in comparable positions, and with comparable job

1 experience and skills. (This occurred on December 21, 2018.)

2 y) Defendants stating that Plaintiff was absent without leave, even though she had submitted proper
3 documents from U.S. HealthWorks indicating she was temporarily partially disabled and unable to
4 drive. Plaintiff alleges on information and belief that Defendants did not act in this fashion
5 regarding male employees in comparable positions, and with comparable job experience and skills.
6 (This happened on December 31, 2018.)

7 z) Defendants denying Defendant CITY had a duty to reasonably accommodate Plaintiff's disability
8 of being unable to drive due to her severe vertigo. Plaintiff alleges on information and belief that
9 Defendants did not act in this fashion regarding male employees in comparable positions, and with
10 comparable job experience and skills. (This happened on December 31, 2018.)

11 aa) Defendants refusing to participate in a timely, good-faith, interactive process regarding Plaintiff's
12 requests for reasonable accommodations. Plaintiff alleges on information and belief that
13 Defendants did not act in this fashion regarding male employees in comparable positions, and with
14 comparable job experience and skills.

15 bb) Defendants failing and refusing to provide reasonable accommodations to Plaintiff so that she could
16 perform her job without being in agonizing pain, even though Plaintiff repeatedly requested
17 reasonable accommodations. Plaintiff alleges on information and belief that Defendants did not act
18 in this fashion regarding male employees in comparable positions, and with comparable job
19 experience and skills.

20 cc) Defendants failing and refusing to conduct a timely, proper, and/or complete investigation of the
21 disability harassment to which Plaintiff was subjected. Plaintiff alleges on information and belief
22 that Defendants did not act in this fashion regarding male employees in comparable positions, and
23 with comparable job experience and skills. Plaintiff alleges on information and belief that
24 Defendants did not act in this fashion regarding male employees in comparable positions, and with
25 comparable job experience and skills.

26 dd) Defendants failing and refusing to pay Plaintiff for her 2019 holiday and sick leave and changing
27 her health insurance from Anthem to Kaiser Permanente HMO without permission or notice.
28 Plaintiff alleges on information and belief that Defendants did not act in this fashion regarding male

employees in comparable positions, and with comparable job experience and skills.

ee) Defendants again terminating Plaintiff's health insurance on January 1, 2019. Plaintiff alleges on information and belief that Defendants did not act in this fashion regarding male employees in comparable positions, and with comparable job experience and skills.

ff) Defendants demoting Plaintiff to a position where she would handle misdemeanor arraignments at Pacific Office, Criminal Branch. Plaintiff alleges on information and belief that Defendants did not act in this fashion regarding male employees in comparable positions, and with comparable job experience and skills.

gg) Defendants failing and refusing to conduct a timely, proper, and/or complete investigation of the sex discrimination and harassment complaint Plaintiff submitted to EMPLOYER Defendants' Office of Discrimination Complaint Resolution on October 16, 2018.

269. The acts and conduct of Defendants and their agents, and each of them, were in violation of the FEHA. The FEHA imposes certain duties upon Defendants concerning discrimination against persons such as Plaintiff, on the basis of sex. The FEHA was intended to prevent the type of injury and damage set forth herein.

270. Defendants and their agents failed and/or refused to conduct a timely, proper, and/or complete investigation of the sex discrimination to which Plaintiff was subjected.

271. Defendants and their agents also violated the FEHA by failing to take all reasonable steps necessary to prevent such discrimination from occurring, in violation of Government Code section 12940(k). During the entire relevant period, Defendants created and fostered an environment where unlawful discrimination was condoned, encouraged, tolerated, sanctioned, and ratified. During the entire relevant period, Defendants failed to provide any and/or adequate training, education, and/or information to their personnel, and most particularly to management and supervisory personnel with regard to policies and procedures regarding avoiding unlawful discrimination. Defendants failed to take reasonable steps to prevent unlawful discrimination from being inflicted on Plaintiff, and this resulted in Plaintiff being discriminated against on a constant and continuous basis.

272. As a direct and legal result of Defendants' unlawful actions, Plaintiff has suffered economic damages pursuant to Civil Code sections 3281, 3283, and 3333. Plaintiff has and will continue to suffer

1 a loss of earnings and benefits, and other employment benefits and job opportunities. Plaintiff has suffered
2 economic damages because of not being promoted year after year when she should have been, because of
3 being required to exhaust her paid vacation and paid sick leave, because of having to take unpaid leave, and
4 because of having to pay her own medical expenses when Defendants terminated her health insurance, all
5 as a result of Defendants' unlawful actions.

6 273. As a direct and legal result of Defendants' unlawful actions, Plaintiff has also suffered and
7 continues to suffer an exacerbation of her physical injuries, conditions and disabilities, pain and suffering,
8 mental anguish, depression, anxiety, loss of self-esteem, anhedonia, humiliation, damage to her reputation,
9 and general emotional distress.

10 274. As a further direct and legal result of the acts and omissions of Defendants, Plaintiff has been
11 forced and/or will be forced to incur expenses for medical care including, but not limited to, treatment by
12 physicians and other health professionals, medical examinations, medical procedures, laboratory costs,
13 prescription medications, and other incidental medical expenses. Plaintiff is therefore entitled to
14 compensatory damages in an amount to be proven at trial.

15 275. The aforementioned acts by DOE Defendants were willful, wanton, malicious, intentional,
16 oppressive and/or despicable and were done in willful and conscious disregard of the rights, welfare, and
17 safety of Plaintiff, thereby justifying the awarding of punitive and exemplary damages against Defendants
18 DOES 1 through 10 (who are **not** public entities) in an amount to be determined at the time of trial.

19 276. As a direct result of Defendants' discriminatory acts, Plaintiff has incurred and continues
20 to incur attorneys' fees, expert witness fees, and costs in an amount to be proven, to which she is also
21 entitled, pursuant to Government Code section 12965(b).

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SIXTH CAUSE OF ACTION
HARASSMENT ON THE BASIS OF SEX
IN VIOLATION OF THE FAIR EMPLOYMENT AND HOUSING ACT
[Including, specifically, Gov. Code § 12940(j)]
[Against All Defendants]

277. Plaintiff realleges and incorporates herein by reference Paragraphs 1 through 164 above, as though fully set forth in this cause of action.

278. At all relevant times for purposes of this Complaint, the FEHA was in full force and effect and binding on Defendants. The FEHA provides:

(j) (1) For an employer . . . , or any other person, because of . . . sex, . . . to harass an employee Harassment of an employee . . . by an employee, other than an agent or supervisor, shall be unlawful if the entity, or its agents or supervisors, knows or should have known of this conduct and fails to take immediate and appropriate corrective action. . . . An entity shall take all reasonable steps to prevent harassment from occurring. Loss of tangible job benefits shall not be necessary in order to establish harassment.

(2) The provisions of this subdivision are Declaratory of existing law, except for the new duties imposed on employers with regard to harassment.

(3) An employee of an entity subject to this subdivision is personally liable for any harassment prohibited by this section that is perpetrated by the employee, regardless of whether the employer or covered entity knows or should have known of the conduct and fails to take immediate and appropriate corrective action.

(4) (A) For purposes of this subdivision only, “employer” means any person regularly employing one or more persons or regularly receiving the services of one or more persons providing services pursuant to a contract, or any person acting as an agent of an employer, directly or indirectly, the state, or any political or civil subdivision of the state, and cities. The definition of “employer” in subdivision (d) of Section 12926 applies to all provisions of this section other than this subdivision.

(B) Notwithstanding subparagraph (A), for purposes of this subdivision, “employer” does not include a religious association or corporation not organized for private profit, except as provided in Section 12926.2.

(C) For purposes of this subdivision, “harassment” because of sex includes sexual harassment, gender harassment, and harassment based on pregnancy, childbirth, or related medical conditions. Sexually harassing conduct need not be motivated by sexual desire.

1 [Gov. Code § 12940(j).]

2 279. At all relevant times herein, as a female employee, Plaintiff was within a class protected by
3 the FEHA.

4 280. On a severe and/or pervasive basis beginning in or around approximately Spring 2011 and
5 continuing to the present, Defendants, and each of them, harassed Plaintiff due to and substantially
6 motivated by Plaintiff's sex through the following actions, among others:

7 a) Jonathan Galatzan harassed Plaintiff by changing Plaintiff's job assignment so that she was required
8 to work part of the time from a storage closet in downtown Los Angeles, doing work which was not
9 originally part of her job and which she did not want to do. Plaintiff alleges on information and
10 belief that Jonathan Galatzan did not harass male employees in this manner. (This occurred in
11 spring 2011.)

12 b) Donald Cocek harassed Plaintiff by changing Plaintiff's job duties further, so that she had to work
13 full-time doing work which was not supposed to be any part of her job, and to do so from a storage
14 closet in downtown Los Angeles. Meanwhile, the part of Plaintiff's position which she had enjoyed
15 (and which was actually what she was transferred into the position to do), involving mediating
16 disputes between landlords and tenants related to landlords allegedly not complying with the Los
17 Angeles Rent Stabilization Ordinance, was assigned to a male Deputy City Attorney who already
18 had a position. There was no legitimate business reason for doing this; it was done purely for
19 purposes of harassing Plaintiff. (This occurred in approximately November 2011.)

20 c) Donald Cocek harassed Plaintiff by staring at Plaintiff's breasts **every single time** she attempted
21 to have a private conversation with him (and sometimes when other people were present). (This
22 occurred during late 2011 and 2012.)

23 d) Donald Cocek harassed Plaintiff by failing to assign cases to other attorneys while Plaintiff was on
24 extended medical leave in order to set Plaintiff up for discipline. There was obviously no legitimate
25 business reason for Donald Cocek to ignore cases for which he was ultimately responsible. It was
26 done purely to harass Plaintiff, and to set her up for disciplinary action. (This occurred from
27 approximately October 2012 to approximately January 29, 2013.)

28 e) Donald Cocek harassed Plaintiff by giving Plaintiff a Notice to Correct Deficiencies for failing to

1 file cases which he had assigned to her **after** she went out on approved leave, and the deadlines for
2 which had passed **before** she returned from leave. This was clearly harassment, since there is no
3 legitimate business reason for disciplining an employee for things they failed to do while they were
4 on medical leave. In fact, this is poor business practice, because it is illegal. (This occurred in
5 January 2013.)

6 f) Defendant BRENTE harassed Plaintiff by failing to order, purchase, and/or install Plaintiff's
7 ergonomic furniture and equipment, even though the ergonomic equipment of a male attorney in
8 the same department was quickly purchased and installed. Defendant BRENTE even taunted
9 Plaintiff about the fact that the male employee obtained his ergonomic equipment and furniture so
10 quickly. Additionally, Defendant BRENTE told Plaintiff she should install the equipment herself,
11 even though doing so would have required using a power drill to drill into a wooden desk. Plaintiff
12 alleges on information and belief that Defendant BRENTE did not harass male employees in this
13 manner. (This occurred from February 16, 2016 to the present.)

14 g) Defendant BRENTE harassed Plaintiff by micro-managing and criticizing Plaintiff for not working
15 from 8:30 a.m. to 5:00 p.m., even though male employees were allowed to work flexible hours and
16 even to work from home. There was no legitimate business reason for this harassment, since
17 Plaintiff could perform much of her job during hours later in the day, or even from home.
18 Defendant BRENTE either refused to believe that menopause could be disabling, or he simply did
19 not care. (This occurred during June 2017.)

20 h) Defendant BRENTE harassed Plaintiff by repeatedly failing and refusing to assign another attorney
21 to cover Plaintiff's cases while she was on leave for her disabilities, causing some filing deadlines
22 to be missed, and forcing Plaintiff to work from home while she was on sick leave. There was
23 obviously no legitimate business reason for Defendant BRENTE to ignore cases for which he was
24 ultimately responsible. It was done purely to harass Plaintiff, and to set her up for disciplinary
25 action. Plaintiff alleges on information and belief that Defendant BRENTE did not harass male
26 employees in this manner. (This occurred from summer 2017 through February 12, 2018, and again
27 from February 27, 2018 through October 16, 2018.)

28 i) Defendants harassed Plaintiff by not only failing to recommend for promotion or promote Plaintiff,

1 but even withholding/denying Plaintiff's anniversary date step. Plaintiff alleges on information and
2 belief that Defendant BRENTE did not harass male employees in this manner. (This occurred in
3 March 2018.)

4 j) Defendant BRENTE harassed Plaintiff by issuing a formal Notice to Correct Deficiencies to
5 Plaintiff, which dwelled **solely** on difficulties she was having at work due to her physical disabilities
6 and serious health conditions, despite the fact that she had been requesting reasonable
7 accommodations for years. This was clearly harassment, since Defendant BRENTE knew it was
8 improper to issue a Notice to Correct Deficiencies in such a situation. Plaintiff alleges on
9 information and belief that Defendant BRENTE did not believe menopause could be disabling, or
10 that he simply did not care. Plaintiff alleges on information and belief that Defendant BRENTE did
11 not harass male employees in this manner. (This occurred on November 7, 2017.)

12 k) Defendant BRENTE harassed Plaintiff by harassed Plaintiff by referring to Plaintiff's workers'
13 compensation claim as "bullshit." This was obviously said to harass Plaintiff, since there was no
14 valid business reason for making such a statement, and it is of course improper, and possibly even
15 illegal, to accuse an employee of committing workers' compensation insurance fraud. Plaintiff
16 alleges on information and belief that Defendant BRENTE did not harass male employees in this
17 manner. (This occurred on November 8, 2017.)¹⁸

18 l) Defendant BRENTE harassed Plaintiff by admonishing Plaintiff for not keeping up with her work
19 while she was in excruciating pain and attempting to work from home. This was clearly
20 harassment, as there was no legitimate business reason to admonish an employee who, in spite of
21 excruciating pain, was trying to keep up with the work which was assigned to her. Plaintiff alleges
22 on information and belief that Defendant BRENTE did not harass male employees in this manner.
23 (This occurred on March 8, 2018.)

24 m) Defendant BRENTE harassed Plaintiff by failing and/or refusing to recommend Plaintiff for
25 promotion in 2015, 2016, 2017, or 2018 (as discussed in detail above) even though he
26 recommended that male attorneys with less experience, who were performing substantially similar
27

28 ¹⁸Plaintiff actually prevailed in that workers' compensation claim, so apparently it was not "bullshit."

1 or even less complex and less demanding work, be promoted. Whenever Plaintiff asked when she
2 would be promoted, Defendant BRENTE just laughed. To this day, Defendant BRENTE has failed
3 and refused to recommend Plaintiff for promotion. Plaintiff alleges on information and belief that
4 Defendant BRENTE does not harass male employees in this manner.

5 n) Defendants harassed Plaintiff by failing and/or refusing, year after year as discussed above, to
6 promote Plaintiff, even while male attorneys with less experience, who were performing
7 substantially similar or even less complex and less demanding work, were promoted. (This has
8 continued to the present.) To this day, Defendants have failed to promote Plaintiff. Plaintiff alleges
9 on information and belief that Defendants do not harass male employees in this manner.

10 o) Defendants harassed Plaintiff by telling Plaintiff that her ergonomic equipment (which had first
11 been prescribed by Plaintiff's doctor **seven years** earlier) had been "ordered," and that Human
12 Resources was awaiting shipment, and giving her no indication regarding when the equipment was
13 expected to arrive. Delaying providing Plaintiff with her ergonomic equipment for **years**, and then
14 requiring her to go through a second ergonomic evaluation, and to wait many months longer, was
15 clearly done to harass Plaintiff, as there was no legitimate business reason for doing so. Plaintiff
16 alleges on information and belief that Defendants did not act in this fashion regarding male
17 employees. In fact, a male employee in the same department had received his ergonomic
18 furnishings very quickly. (This occurred on June 8, 2018.)

19 p) Defendants harassed Plaintiff by failing and/or delaying for years to order the ergonomic equipment
20 and furniture which were necessities for Plaintiff, Defendants failing and/or delaying for years the
21 installation and set-up of the ergonomic equipment and furniture which were necessities for
22 Plaintiff, and Defendants repeatedly making misrepresentations and false promises to Plaintiff about
23 the status of the ergonomic items being delivered and installed constituted harassment. Plaintiff
24 alleges on information and belief that Defendants did not harass male employees in this manner.
25 (This occurred from 2011 to the present.)

26 q) Defendants harassed Plaintiff by terminating Plaintiff's health benefits (without notice) while she
27 had still not received any response to her April 25, 2018 request to take a FMLA/CFRA leave of
28 absence, and the ergonomic equipment and furnishings had still not been installed in her office,

1 which would have allowed her to return to work. This was done purely to harass Plaintiff. Plaintiff
2 alleges on information and belief that Defendants did not harass male employees in this manner.
3 (This occurred on June 9, 2018.)

4 r) Defendants harassed Plaintiff by threatening to terminate Plaintiff only three hours after she advised
5 them of work restrictions imposed by U.S. HealthWorks, which is the occupational medicine
6 provider designated by EMPLOYER Defendants. Plaintiff alleges on information and belief that
7 Defendants did not harass male employees in this manner. (This occurred on December 21, 2018.)

8 s) Defendants harassed Plaintiff by stating that Plaintiff was absent without leave, even though she had
9 submitted proper documents from U.S. HealthWorks indicating she was temporarily partially
10 disabled and unable to drive. Plaintiff alleges on information and belief that Defendants did not act
11 in this fashion regarding male employees in comparable positions, and with comparable job
12 experience and skills. Plaintiff alleges on information and belief that Defendants did not harass
13 male employees in this manner. (This happened on December 31, 2018.)

14 t) Defendants harassed Plaintiff by denying Defendant CITY had a duty to reasonably accommodate
15 Plaintiff's disability of being unable to drive due to her severe vertigo. Plaintiff alleges on
16 information and belief that Defendants did not act in this fashion regarding male employees in
17 comparable positions, and with comparable job experience and skills. (This happened on December
18 31, 2018.)

19 u) Defendants harassed Plaintiff by failing and refusing to pay Plaintiff for her 2019 holiday and sick
20 leave and changing her health insurance from Anthem to Kaiser Permanente HMO without
21 permission or notice. Plaintiff alleges on information and belief that Defendants did not harass male
22 employees in this manner. (This happened from January 1, 2019 to the present.)

23 v) Defendants harassed Plaintiff by, in early December 2018, changing Plaintiff's health insurance
24 from Anthem, to Kaiser Permanente, without anyone even giving her any notice of this change.
25 (Plaintiff found out when she attempted to get a prescription refilled at the pharmacy.)

26 w) Defendants harassed and retaliated against Plaintiff by demoting her to Pacific Office, Criminal
27 Branch, where she would be handling misdemeanor arraignments (an entry-level task), and
28 pretending the demotion was an "accommodation" for Plaintiff. Plaintiff alleges information and

believe that Defendant BRENTE was one of the people responsible for this transfer.

- x) Defendants harassed Plaintiff by telling her “request for a personal medical leave of absence extension” had been “approved as a reasonable accommodation for the continuous period of February 11, 2019 through March 7, 2019,” totally denying their part in causing Plaintiff’s injuries. EMPLOYER Defendants continue to use the terms “personal medical leave of absence” and “reasonable accommodation” even though Plaintiff was unable to work because of an on-the-job injury, Plaintiff had filed a workers’ compensation claim, and the City-designated infectious disease specialist had stated Plaintiff was unable to work. The letter was also emailed to Julie San Juan, Plaintiff’s new supervisor at her new assignment at the Pacific Office, Criminal Branch.
- y) Defendants harassed Plaintiff by ordering her to report for work at Pacific Office, Criminal Branch, even though they knew the City-designated infectious disease specialist – _____ Sokolov, had excused Plaintiff from work through February 11.
- z) Defendants harassed Plaintiff by sending her detailed instructions regarding where she was supposed to **park** at Pacific Office, Criminal Branch, even though they knew **Plaintiff was not allowed to drive**.
- ii) Defendants (including Defendant BRENTE) harassed Plaintiff by refusing to allow her to work from home (even though many other deputy city attorneys in the Police Litigation Unit do so, and even though Defendant BRENTE had insisted that Plaintiff do so).
- jj) Defendants (including Defendant BRENTE) harassed Plaintiff by refusing to allow Plaintiff to work from a location in or near San Pedro (even though it could easily have been done).
- kk) Defendants (including Defendant BRENTE) harassed Plaintiff by refusing to allow her to work a flexible work schedule (even though many other deputy city attorneys in the Police Litigation Unit do so).
- ll) Defendants harassed Plaintiff by refusing to providing ergonomic equipment and furnishings **which her doctor ordered in 2011**, even though a male employee in the department received his ergonomic furniture quite quickly.
- mm) Refused Plaintiff “accommodations” which were simply the usual job benefits for other deputy city attorneys in the Police Litigation Unit.

1 nn) Defendants harassed Plaintiff by failing and refusing to conduct a timely, proper, and/or complete
2 investigation of the sex harassment to which Plaintiff was subjected, and about which Plaintiff had
3 complained.

4 oo) Defendants harassed Plaintiff by refusing to participate in a timely, good-faith, interactive process
5 regarding Plaintiff's requests for reasonable accommodations. This refusal to even talk to Plaintiff
6 about the reasonable accommodations she needed was clearly harassment, so there was no
7 legitimate business reason for doing so. Plaintiff alleges on information and belief that Defendants
8 did not harass male employees in this manner. (This occurred from 2011 to the present.)

9 pp) Defendants harassed Plaintiff by failing and refusing to provide reasonable accommodations to
10 Plaintiff so that she could perform her job without being in agonizing pain, even though Plaintiff
11 repeatedly requested reasonable accommodations. This refusal to provide Plaintiff with reasonable
12 accommodations, which her doctors had been prescribing and she had been requesting for many
13 years, was clearly done for the purpose of harassment; there was no legitimate business reason for
14 Defendants' actions. Plaintiff alleges on information and belief that Defendants did not harass male
15 employees in this manner. (This occurred from 2011 to the present.)

16 qq) Defendants harassed Plaintiff by failing and refusing to conduct a timely, proper, and/or complete
17 investigation of the disability harassment to which Plaintiff was subjected. This is just one more
18 way in which Defendants have been harassing Plaintiff for years, and are continuing to do so.
19 Plaintiff alleges on information and belief that Defendants did not harass male employees in this
20 manner.

21 rr) Defendants harassed Plaintiff by failing and refusing to conduct a timely, proper, and/or complete
22 investigation of the sex discrimination and harassment complaint Plaintiff submitted to
23 EMPLOYER Defendants' Office of Discrimination Complaint Resolution on October 16, 2018.
24 Plaintiff alleges on information and belief that Defendants did not harass male employees in this
25 manner.

26 281. In doing the acts alleged herein, Defendants, and each of them, were substantially motivated
27 by Plaintiff's sex.

28 282. As a direct and legal result of Defendants' unlawful harassment and related actions and

1 omissions, Plaintiff has suffered economic damages pursuant to Civil Code sections 3281, 3283, and 3333.
2 Plaintiff has and will continue to suffer a loss of earnings and benefits, and other employment benefits and
3 job opportunities. Plaintiff has suffered economic damages because of not being promoted year after year
4 when she should have been, because of being required to exhaust her paid vacation and paid sick leave,
5 because of having to take unpaid leave, and because of having to pay her own medical expenses when
6 Defendants terminated her health insurance, all as a result of Defendants' unlawful actions.

7 283. As a direct and legal result of Defendants' unlawful acts and omissions, Plaintiff has also
8 suffered and continues to suffer an exacerbation of her lumbar spine injury and her other physical injuries,
9 conditions and disabilities, pain and suffering, mental anguish, depression, anxiety, loss of self-esteem,
10 anhedonia, humiliation, damage to her reputation, and general emotional distress.

11 284. As a further direct and legal result of the acts and omissions of Defendants, Plaintiff has been
12 forced and/or will be forced to incur expenses for medical care including, but not limited to, treatment by
13 physicians and other health professionals, medical examinations, medical procedures, laboratory costs,
14 prescription medications, and other incidental medical expenses. Plaintiff is therefore entitled to
15 compensatory damages in an amount to be proven at trial.

16 285. The aforementioned acts by DOE Defendants and Defendant BRENTE were willful, wanton,
17 malicious, intentional, oppressive and/or despicable and were done in willful and conscious disregard of
18 the rights, welfare, and safety of Plaintiff, thereby justifying the awarding of punitive and exemplary
19 damages against Defendants DOES 1 through 10 (who are **not** public entities) and Defendant BRENTE in
20 an amount to be determined at the time of trial.

21 286. As a direct result of Defendants' unlawful acts and omissions, Plaintiff has incurred and
22 continues to incur attorneys' fees, expert witness fees, and costs in an amount to be proven, to which she
23 is also entitled, pursuant to Government Code section 12965(b).

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1 **SEVENTH CAUSE OF ACTION**

2 **RETALIATORY DISCRIMINATION (RETALIATION)**

3 **IN VIOLATION OF THE FAIR EMPLOYMENT AND HOUSING ACT**

4 **[Including, specifically, Gov. Code § 12940(h)]**

5 **[Against EMPLOYER Defendants and DOE Defendants]**

6 287. Plaintiff realleges and incorporates herein by reference Paragraphs 1 through 164 above, as
7 though fully set forth in this cause of action.

8 288. Plaintiff was, at all times material hereto, a female employee with physical disabilities, who
9 was within two protected classes covered by Government Code section 12940, and who engaged in legally
10 protected conduct.

11 289. Plaintiff asserted her legal rights, and was retaliated against based on those assertions, on
12 the following occasions, among others:

- 13 a) In March 2017, Plaintiff complained to Defendant BRENTE and to persons in the Human
14 Resources Department of EMPLOYER Defendants that the denial of a promotion on her March
15 2017 anniversary date constituted discrimination based on her sex, her physical disabilities, and for
16 taking FMLA/CFRA. She complained that a male employee, with disabilities comparable to her
17 physical disabilities, would not be treated so callously.
- 18 b) Also in March 2017, Plaintiff complained to persons in the Human Resources Department of
19 EMPLOYER Defendants that she was being discriminated against based on her sex and physical
20 disabilities by being forced to exhaust the vacation and sick leave which she had worked for years
21 to accrue, rather than being provided with the reasonable accommodations which would enable her
22 to work. Plaintiff asserted that a male employee, with physical disabilities comparable to hers,
23 would not be treated so callously as she was being treated.
- 24 c) In June 2017, in direct retaliation for her March 2017 complaints of discrimination, Defendants
25 changed the essential job functions set forth in Plaintiff's job description to add new physical
26 requirements which she could not satisfy.
- 27 d) On July 11, 2017, Plaintiff complained to David Trujillo and Margaret Shikibu, both of
28 EMPLOYER Defendants' Human Resources Department, that she was being discriminated against

- 1 based on her sex and physical disabilities by being forced to exhaust the vacation and sick leave
2 which she had worked for years to accrue, rather than being provided with the reasonable
3 accommodations which would enable her to work. Plaintiff asserted that a male employee with
4 physical disabilities comparable to hers would not be treated so callously as she was being treated.
- 5 e) From July 23 through August 5, 2017, Defendants forced Plaintiff to use 82 hours of sick leave and
6 38.5 hours of vacation in direct retaliation for Plaintiff's complaints of June 2017 and July 2017 (as
7 well as for Plaintiff's earlier complaints of discrimination). Defendants further retaliated against
8 Plaintiff during this time by requiring her to work part-time from home even though she was using
9 accrued sick leave and accrued vacation.
- 10 f) In approximately October 2017, Plaintiff told Defendant BRENTE he was harassing and
11 discriminating against her based on her sex and her physical disabilities by forcing her to exhaust
12 the vacation and sick leave which she had worked for years to accrue, rather than being provided
13 with the reasonable accommodations which would enable her to work. It was obviously possible
14 to provide reasonable accommodations, since a male in the department who had requested
15 accommodations had been granted them within a very short time period.
- 16 g) On November 7, 2017, in direct retaliation for Plaintiff's October 2017 complaints of discrimination
17 and harassment to Defendant BRENTE, Defendant BRENTE and EMPLOYER Defendants issued
18 a Notice to Correct Deficiencies to Plaintiff.
- 19 h) During a November 8, 2017 meeting to discuss the November 7, 2017 Notice to Correct
20 Deficiencies, Plaintiff pointed out that the Notice to Correct deficiencies dwelled **solely** on
21 difficulties she was having at work due to her physical disabilities, and for which she had been
22 requesting reasonable accommodations for seven years, and complained that this constituted
23 harassment and discrimination based on her physical disabilities. Plaintiff also complained she was
24 being discriminated against and harassed based on her sex because she did not believe male
25 employees were being disciplined for having physical disabilities. Plaintiff also complained she was
26 being punished for taking FMLA/CFRA leave, which she only had to take because Defendants
27 refused to provide the reasonable accommodations she required.
- 28 i) In late November or early December 2017, Plaintiff complained to David Trujillo that she was being

1 discriminated against based on her sex and physical disabilities by being forced to exhaust the
2 vacation and sick leave which she had worked for years to accrue. Plaintiff asserted that a male
3 employee with physical disabilities comparable to hers would not be treated so callously as she was
4 being treated. Plaintiff also complained to David Trujillo that Defendant BRENTE was harassing
5 and discriminating against her by failing to assign sufficient personnel to cover her cases while she
6 was on sick leave, which caused deadlines and due dates to be missed, for which she was being
7 blamed.

8 j) Plaintiff took intermittent FMLA/CFRA leave from January 21, 2018 through February 11, 2018,
9 and FMLA/CFRA leave from February 29, 2018 through June 9, 2018. During this time, Defendant
10 BRENTE failed to assign sufficient personnel to cover Plaintiff's cases. In January or February
11 2018, Plaintiff complained to Defendant BRENTE that his failure to assign sufficient personnel to
12 cover her cases while she was on FMLA/CFRA leave constituted discrimination and harassment
13 based on her physical disabilities, her sex, and for taking FMLA/CFRA leave.

14 k) On February 14, 2018, Plaintiff complained to EMPLOYER Defendants (specifically, to David
15 Trujillo) that Defendant BRENTE and Defendant CITY ATTORNEY'S OFFICE were harassing
16 and discriminating against her because of taking FMLA/CFRA leave, and based on her physical
17 disabilities and her sex for the same reasons as discussed above.

18 l) On March 8, 2018, in direct retaliation for Plaintiff's complaints of harassment and discrimination
19 based on her physical disabilities, her sex, and for taking FMLA/CFRA leave, Defendant BRENTE
20 sent Plaintiff an email in which he admonished her for not keeping up with her work while she was
21 in excruciating pain and trying to work from home.

22 m) Also in March 2018, in direct retaliation for her complaints of harassment and discrimination based
23 on her physical disabilities, her sex, and for taking FMLA/CFRA leave, Defendant BRENTE and
24 EMPLOYER Defendants denied/withheld Plaintiff's anniversary date step for one year, which is
25 virtually unheard of.

26 n) In March 2018, Plaintiff again complained to EMPLOYER Defendants that she was being
27 discriminated against based on her sex and physical disabilities, and for taking FMLA/CFRA leave,
28 by being forced to exhaust the vacation and sick leave which she had worked for years to accrue,

1 rather than being provided with the reasonable accommodations which would enable her to work.
2 Plaintiff asserted that a male employee with physical disabilities comparable to hers would not be
3 treated so callously as she was being treated.

4 o) On June 9, 2018, as a direct result of Plaintiff's complaints of discrimination and harassment
5 (without the ergonomic equipment ever being installed in her office), Plaintiff was removed from
6 payroll and her health insurance benefits were terminated with **no notice** by Defendants. This left
7 Plaintiff, who clearly has numerous health issues, without health insurance, without notice.
8 (EMPLOYER Defendants eventually notified Plaintiff that she had been removed from payroll and
9 her health insurance benefits terminated over a month later – on July 13, 2018.)

10 p) On October 16, 2018, Plaintiff submitted a complaint to EMPLOYER Defendants' Office of
11 Discrimination Complaint Resolution. In that complaint, Plaintiff alleged discrimination based on
12 sex (among other things), and further alleged she had been subjected to a variety of harassing and
13 discriminatory treatment, including several adverse employment actions.

14 q) On December 21, 2018, as a direct result of Plaintiff's complaints of discrimination and harassment,
15 including the October 16, 2018 submission of a complaint to EMPLOYER Defendants' Office of
16 Discrimination Complaint Resolution, Defendants notified Plaintiff was "absent without leave" and
17 threatened to terminate Plaintiff only three hours after she advised them of work restrictions
18 imposed by U.S. HealthWorks, which is the occupational medicine provider designated by
19 EMPLOYER Defendants.

20 r) On December 31, 2018, as a direct result of Plaintiff's complaints of discrimination and harassment,
21 including the October 16, 2018 submission of a complaint to EMPLOYER Defendants' Office of
22 Discrimination Complaint Resolution, Defendants notified Plaintiff she was "absent without leave"
23 and implied she would be terminated even though she had submitted all the necessary medical
24 documents from U.S. HealthWorks indicating she was temporarily partially disabled and unable to
25 drive.

26 s) On December 31, 2018, as a direct result of Plaintiff's complaints of discrimination and harassment,
27 including the October 16, 2018 submission of a complaint to EMPLOYER Defendants' Office of
28 Discrimination Complaint Resolution, Defendants failed and refused to pay Plaintiff for her 2019

1 holiday and sick leave and changed her health insurance from Anthem to Kaiser Permanente HMO
2 without permission or notice.

3 t) On January 17, 2019, all named Defendants were served with Plaintiff's DFEH Complaint.
4 Vivienne Swanigan immediately sent Plaintiff a letter stating that there was ""no staff, no
5 equipment, no authorization, and no funds" and "no plan" to fumigate City Hall East. Plaintiff
6 alleges based on information and belief that Defendant FEUER directed Vivienne Swanigan to send
7 the January 17, 2019 letter.

8 u) On January 31, 2019, David Trujillo sent an email to Plaintiff in which he stated "driving or
9 operating heavy equipment" were not "essential functions" of Plaintiff's Deputy City Attorney
10 position, and that Plaintiff was expected to report for work on Monday, February 4, 2019. In fact,
11 Defendant BRENTE had stated in his June 12, 2017 memo titled "Essential Functions of Deputy
12 City Attorneys in Police Litigation Unit":

13 It should be noted that taking and defending depositions often involves travel
14 both in southern California and across the United States . . . the duties
15 include defending the case at trial, which involves travel to and from court
16 (by walking or car) . . . While most of the cases are venued in downtown
Los Angeles, some federal cases are assigned to the Santa Ana and Riverside
courthouses, and some superior court cases are assigned to the San Fernando
Valley or other branch courthouses.

17 Plaintiff alleges that this January 31, 2019 order that she report for work was in retaliation both for Plaintiff
18 filing and serving her DFEH Complaint and for her speaking to the media about contracting typhus at City
19 Hall East. Plaintiff further alleges on information and belief that Defendant FEUER directed that the
20 January 31, 2019 order for Plaintiff to report to work be made.

21 290. On February 1, 2019, EMPLOYER Defendants were served with the Complaint in this
22 matter.

23 291. On February 6, 2019 (only three workdays after EMPLOYER Defendants were served with
24 the Complaint in this matter) David Trujillo sent Plaintiff an email notifying her that she was expected to
25 report to her new supervisor Julie San Juan at her new work location at the Pacific Office, Criminal Branch
26 (11701 S. La Cienega Boulevard, Los Angeles 90045) on February 11 (even though Plaintiff had previously
27 submitted documents from U.S. HealthWorks stating that she was "temporarily partially disabled" and was
28 "not to drive or operate heavy machinery" through February 11, 2019). In this position, Plaintiff would

1 be handling misdemeanor arraignments at the Pacific Office, Criminal Branch. A change in assignment
2 from working in the Police Litigation Unit, where she was defending Defendant CITY in million-dollar
3 cases, to a position handling misdemeanor arraignments (which is an entry-level job) was humiliating and
4 demeaning. This was clearly a change to an inferior position, with much less status than the position
5 Plaintiff had held with the Police Litigation Unit, and was therefore an involuntary and wrongful demotion.
6 Additionally, this demotion did nothing to address the accommodation Plaintiff needed relating to her
7 inability to drive due to vertigo caused by the typhus. Plaintiff alleges that this February 6, 2019 demotion
8 was in direct retaliation for her continued complaining, both internally and to the media, about the typhus
9 epidemic and, specifically, at City Hall East. Plaintiff further alleges on information and belief that
10 Defendant FEUER directed Plaintiff's demotion from working in the Police Litigation Unit to handling
11 misdemeanor arraignments at the LAX courthouse for the Pacific Office, Criminal Branch.

12 292. On (February 8, 2019, knowing Plaintiff had previously submitted documents from U.S.
13 HealthWorks stating that she was "temporarily partially disabled" and was "**not to drive** or operate heavy
14 machinery" **through February 11, 2019**, David Trujillo sent Plaintiff an email with instructions regarding
15 where she was to **park on February 11**, when she reported for her new (demoted) assignment handling
16 misdemeanor arraignments at the Pacific Office, Criminal Branch.

17 293. In doing the acts alleged herein, Defendants, and each of them, were substantially motivated
18 by Plaintiff's complaints of harassment and discrimination based on her physical disabilities, her sex, and
19 for taking FMLA/CFRA leave.

20 294. As a direct and legal result of Defendants' unlawful retaliation and related actions and
21 omissions, Plaintiff has suffered economic damages pursuant to Civil Code sections 3281, 3283, and 3333.
22 Plaintiff has and will continue to suffer a loss of earnings and benefits, and other employment benefits and
23 job opportunities. Plaintiff has suffered economic damages because of not being promoted year after year
24 when she should have been, because of being required to exhaust her paid vacation and paid sick leave,
25 because of having to take unpaid leave, and because of having to pay her own medical expenses when
26 Defendants terminated her health insurance, all as a result of Defendants' unlawful actions.

27 295. As a direct and legal result of Defendants' unlawful acts and omissions, Plaintiff has also
28 suffered and continues to suffer an exacerbation of her lumbar spine injury and her other physical injuries,

conditions and disabilities, pain and suffering, mental anguish, depression, anxiety, loss of self-esteem, anhedonia, humiliation, damage to her reputation, and general emotional distress.

296. As a further direct and legal result of the acts and omissions of Defendants, Plaintiff has been forced and/or will be forced to incur expenses for medical care including, but not limited to, treatment by physicians and other health professionals, medical examinations, medical procedures, laboratory costs, prescription medications, and other incidental medical expenses. Plaintiff is therefore entitled to compensatory damages in an amount to be proven at trial.

297. The aforementioned acts by DOE Defendants were willful, wanton, malicious, intentional, oppressive and/or despicable and were done in willful and conscious disregard of the rights, welfare, and safety of Plaintiff, thereby justifying the awarding of punitive and exemplary damages against Defendants DOES 1 through 10 (who are **not** public entities) in an amount to be determined at the time of trial.

298. As a direct result of Defendants' unlawful acts and omissions, Plaintiff has incurred and continues to incur attorneys' fees, expert witness fees, and costs in an amount to be proven, to which she is also entitled, pursuant to Government Code section 12965(b).

EIGHTH CAUSE OF ACTION

DISCRIMINATION FOR EXERCISING THE RIGHT TO MEDICAL LEAVE PURSUANT TO THE CALIFORNIA FAMILY RIGHTS ACT

[Including, specifically, Gov. Code § 12945.2(l)]

[Against EMPLOYER Defendants and DOE Defendants]

299. Plaintiff realleges and incorporates herein by reference Paragraphs 1 through 164 above, as though fully set forth in this cause of action.

300. Pursuant to the California Family Rights Act, it "shall be an unlawful employment practice for an employer to . . . discriminate against any individual because of . . . [a]n individual's exercise of the right to family care and medical leave provided [pursuant to the Act]." [Gov. Code § 12945.2(l).]

A. Discrimination for March 11, 2016 through June 5, 2016 FMLA/CFRA leave

301. Plaintiff took FMLA/CFRA leave from March 11, 2016 through June 5, 2016. Before she went into emergency surgery, Plaintiff contacted Defendant BRENTE, Cristina Sarabia, and Wanda

1 Hudson, and advised all of them that she was having emergency surgery, and would need to take
2 FMLA/CFRA leave for an unknown amount of time. Plaintiff also emailed Kellie Tran (Payroll and
3 Special Funds Administrator) and told her she was having an emergency hysterectomy, and that she had
4 already notified Defendant BRENTE. Kellie Tran emailed Cristina Sarabia and Wanda Hudson with the
5 information the same day.

6 302. On March 24, 2016, Cristina Sarabia, Human Resources Director, sent Plaintiff a memo,
7 advising her that her FMLA/CFRA leave was approved from March 18, 2016 through a date not yet
8 determined. Cristina Sarabia also stated in the March 24, 2016 memo: “During your leave, the Payroll
9 Section of the Los Angeles CITY ATTORNEY’S Office will input the appropriate payroll codes into our
10 office’s payroll system (D-Time).”

11 303. On April 26, 2016, Plaintiff’s physician completed a medical certification in which he stated
12 that Plaintiff would not be able to return to work until May 14, 2016, but that she was able to return to
13 “limited work from home” as of April 18, 2016. On or about April 30, 2016, Plaintiff’s physician **twice**
14 faxed the Certification of Health Care Provider to Wanda Hudson of the Human Resources Department.
15 Despite that, and despite the written assurances in Cristina Sarabia’s March 24, 2016 memo, **on May 1,**
16 **2016, while Plaintiff was home recovering from surgery, Wanda Hudson sent Plaintiff an email**
17 **telling her she was being removed from payroll, effective May 2, 2016.** Plaintiff had a substantial
18 amount of accrued sick leave at this time, which Wanda Hudson knew. The May 1, 2016 email from
19 Wanda Hudson caused added stress, which Plaintiff alleges contributed to the various physical problems
20 she was having.

21 304. Plaintiff had originally planned to return to work on May 16, 2016, but due to medical
22 complications, was forced to extend her FMLA/CFRA leave through June 5, 2016. Arranging for this
23 FMLA/CFRA leave was an ordeal, because Wanda Hudson repeatedly requested more detailed medical
24 information (to which EMPLOYER Defendants were not entitled) from Plaintiff’s doctor, and threatened
25 Plaintiff that if she did not provide further medical details, she would be classified as “AWOL.” Plaintiff’s
26 doctor had sent a letter dated May 24, 2016, stating that Plaintiff was able to work from home for up to six
27 hours per day, and that she could return to work on June 5, 2016. As a result of Wanda Hudson’s
28 haranguing and threats, on May 26, 2016, Plaintiff’s physician wrote another letter, in which he stated:

1 Elizabeth Greenwood is unable to commute to and from the workplace. She
2 is able to work from home for up to six hours a day. As she heals she is able
3 to go out for short outings, but she is unable to be in an office environment
4 for an extended period of time. This restriction is currently until June 5,
2016 and will be reviewed with Ms. Greenwood to see if further restrictions
are necessary to maintain and improve her health as she recovers.

5 305. While Plaintiff was on FMLA/CFRA leave from March 11, 2016 through June 5, 2016,
6 Defendant BRENTÉ failed and refused to assign another attorney to cover Plaintiff's cases, so that
7 deadlines and due dates were missed in some cases which were still assigned to Plaintiff. Plaintiff had
8 voluntarily been doing some work from home starting in mid-April 2016, but was not paid for this time.¹⁹

9 306. On January 22, 2017, Plaintiff received a change (**not** a promotion) from Deputy City
10 Attorney III, Step G, to Deputy City Attorney III, Step 13, in order to convert to the salary grade system.

11 307. On her anniversary date in March 2017, Plaintiff should have been promoted to Deputy City
12 Attorney IV, Step 10, but she was not, since she had never even been promoted to the Deputy City Attorney
13 IV position. Instead, she received only a small bump from Deputy City Attorney III, Step 13, to Deputy
14 City Attorney III, Step 14. This failure to promote Plaintiff was a direct result of her taking FMLA/CFRA
15 leave in 2016, and Plaintiff complained about this discrimination to Defendant BRENTÉ, and to persons
16 in the Human Resources Department. She complained, among other things, that denial of a promotion on
17 her March 2017 anniversary date constituted discrimination for taking FMLA/CFRA leave. Plaintiff also
18 pointed out that attorneys with less experience than her, who had not taken FMLA/CFRA leave, and who
19 were performing substantially similar or even less complex and less demanding work, were being promoted
20 to ranks of Deputy City Attorney IV, Step 10, or higher.

21 308. On June 12, 2017, Defendant BRENTÉ sent a memorandum to Human Resources,
22 describing the essential job functions of deputy city attorneys working in the Police Litigation Unit (which
23 is where Plaintiff had been assigned since June 2013). The essential job duties included functions which
24

25 ¹⁹Although EMPLOYER Defendants had authorized Plaintiff to work from home three hours per day
26 from May 3, 2016 through May 14, 2016, Defendant BRENTÉ never assigned Plaintiff any work during this
27 period. However, Plaintiff's secretary would call from time to time and advise Plaintiff of deadlines and
28 due dates on Plaintiff's cases (which had not been re-assigned during Plaintiff's FMLA leave), and Plaintiff
would prepare whatever documents or take whatever action was required to prevent the case from being
compromised.

1 required a substantial amount of sitting (or standing) at a desk (although no time estimate was provided),
2 and which also required traveling to court and to depositions, carrying, wheeling, lifting, and maneuvering
3 boxes of trial documents, binders, and exhibits, “which are often voluminous.” These essential job
4 functions were not consistent with what the job had consisted of in the past, since support staff took boxes
5 of trial documents, binders, and exhibits to court and back, and did the “carrying, wheeling, lifting, and
6 maneuvering.” (Since Plaintiff’s secretary had retired in early 2017, and Plaintiff was not even assigned
7 a new secretary, the only assistance she received came from the clerks.) This job description with additional
8 “essential job duties” appears to have been designed to make Plaintiff unqualified for her job. This was
9 done to discriminate against Plaintiff for having taken FMLA/CFRA leave in 2016.

10 309. On November 7, 2017, Defendant BRENTE issued a Notice to Correct Deficiencies to
11 Plaintiff, which dwelled **solely** on difficulties she was having at work due to her physical disabilities, in
12 discrimination for her taking FMLA/CFRA leave in 2016. (During a November 8, 2017 meeting to discuss
13 the November 7, 2017 Notice to Correct Deficiencies, Plaintiff complained that she was being punished
14 for taking FMLA/CFRA leave (among other things).)

15 310. Defendants also discriminated against Plaintiff for taking FMLA/CFRA leave from March
16 11, 2016 through June 5, 2016 by continuing (from April 2016 through the end of 2017) to fail and/or refuse
17 to accommodate her physical disabilities. Among other things, Defendants discriminated against Plaintiff
18 for taking FMLA/CFRA leave throughout 2016 and 2017, by failing and refusing to order and install the
19 ergonomic items which were a necessity to Plaintiff, and for continuing to misrepresent and make false
20 promises regarding the ordering and installation of the ergonomic items. Defendants also failed and refused
21 to reasonably accommodate Plaintiff’s reproductive and endocrine disabilities by refusing to accommodate
22 her need to sleep up to 16 hours per night. Defendants could easily accommodated Plaintiff’s disability by
23 granting her permission to work from home, and/or allowing her a reduced work schedule, and/or allowing
24 her a flexible work schedule. To this date, Defendants have failed to accommodate Plaintiff’s physical
25 disabilities.

26 311. Defendants also discriminated against Plaintiff for (among other things) taking
27 FMLA/CFRA leave from March 11, 2016 through June 5, 2016 by continuing (from March 2016 through
28 the end of 2017) to fail and/or refuse to promote Plaintiff.

B. Discrimination for January 21, 2018 through February 11, 2018 Intermittent FMLA/CFRA Leave (As Well as Prior FMLA/CFRA Leave)

312. Plaintiff took intermittent FMLA/CFRA leave from January 21, 2018 through February 11, 2018.

313. Plaintiff worked from February 12, 2018 through February 27, 2018. During that time, Defendants continued to fail and refuse to accommodate Plaintiff's physical disabilities. This was due, in part, to Plaintiff taking FMLA/CFRA leave from January 21, 2018 through February 11, 2018.

314. On February 14, 2018, Plaintiff complained to EMPLOYER Defendants (specifically, to David Trujillo) that, among other things, Defendant BRENTE and EMPLOYER Defendants were harassing and discriminating against her because of taking FMLA/CFRA leave.

315. Defendants also discriminated against Plaintiff for taking FMLA/CFRA leave from January 21, 2018 through February 11, 2018 (and for taking prior FMLA/CFRA leave) by failing and/or refusing to accommodate Plaintiff's physical disabilities. Among other things, Defendants discriminated against Plaintiff for taking FMLA/CFRA leave by failing and refusing to order and install the ergonomic items which were a necessity to Plaintiff, and for continuing to misrepresent and make false promises regarding the ordering and installation of the ergonomic items. Defendants also failed and refused to reasonably accommodate Plaintiff's reproductive and endocrine disabilities by refusing to accommodate her need to sleep up to 16 hours per night. Defendants could easily have accommodated Plaintiff's disability by granting her permission to work from home, and/or allowing her a reduced work schedule, and/or allowing her a flexible work schedule. To this date, Defendants have failed to accommodate Plaintiff's physical disabilities.

316. Defendants also discriminated against Plaintiff for taking FMLA/CFRA leave from January 21, 2018 through February 11, 2018 by Defendant BRENTE failing and refusing to assign another attorney to cover Plaintiff's cases, so that deadlines and due dates were missed in some cases which were still assigned to Plaintiff.

317. Defendants also discriminated against Plaintiff for (among other things) taking FMLA/CFRA leave from January 21, 2018 through February 11, 2018 (and for taking prior FMLA/CFRA leave) by failing and/or refusing to promote Plaintiff. To this date, Defendants have failed and/or refused

1 to promote Plaintiff.

2 **C. Discrimination for March 8, 2018 through April 9, 2018 FMLA/CFRA Leave (As Well as**
3 **Prior FMLA/CFRA Leave)**

4 318. Plaintiff took FMLA/CFRA leave from March 8, 2018 through April 9, 2018. Plaintiff had
5 tried working from home as an accommodation for her disabilities but, on March 8, 2018, Defendant
6 BRENTÉ sent Plaintiff an email in which he admonished her for not keeping up with her work while she
7 was in excruciating pain and trying to work from home. Plaintiff therefore gave up trying to work part-time
8 from home and, on March 12, 2018, notified Human Resources of her need to take FMLA/CFRA leave,
9 beginning (retroactively) on March 8, 2018. The very next day (on March 13, 2018), her anniversary date
10 step was denied/withheld for one year – something which is virtually unheard of. This denial/withholding
11 of her anniversary date step (as well as Defendants’ continuing failure/refusal to promote Plaintiff) was a
12 direct result of her taking FMLA/CFRA leave in 2016, and again in 2018.

13 319. Defendants continued discriminating against Plaintiff for taking FMLA/CFRA leave by
14 doing things such as failing and/or refusing to provide the reasonable accommodations Plaintiff required
15 (and to which she was entitled) in order to return to work, misrepresenting the status of the ergonomic items
16 to Plaintiff, and making false promises to Plaintiff regarding the ergonomic items. Defendants also failed
17 and refused to reasonably accommodate Plaintiff’s reproductive and endocrine disabilities by refusing to
18 accommodate her need to sleep up to 16 hours per night. Defendants could easily have accommodated
19 Plaintiff’s disability by granting her permission to work from home, and/or allowing her a reduced work
20 schedule, and/or allowing her a flexible work schedule. To this date, Defendants have failed to
21 accommodate Plaintiff’s physical disabilities.

22 320. In March 2018, Plaintiff again complained to EMPLOYER Defendants that she was being
23 discriminated against for (among other things) taking FMLA/CFRA leave, by not having her disabilities
24 reasonably accommodated, and instead being forced to exhaust the vacation and sick leave which she had
25 worked for years to accrue. To this date, Defendants have failed to accommodate Plaintiff’s physical
26 disabilities.

27 321. Defendants also discriminated against Plaintiff for (among other things) taking
28 FMLA/CFRA leave from March 8, 2018 through April 9, 2018 (and for taking prior FMLA/CFRA leave)

1 by failing and/or refusing to promote Plaintiff. To this date, Defendants have failed and/or refused to
2 promote Plaintiff.

3 **D. Discrimination for April 25, 2018 through June 9, 2018 FMLA/CFRA Leave**

4 322. In April 2018, Plaintiff requested to take a FMLA/CFRA leave of absence, but months went
5 by without her receiving a response. Finally, on September 21, 2018, Human Resources sent a letter stating
6 that Plaintiff was being granted a “personal medical leave of absence . . . as a reasonable accommodation
7 for the continuous period of April 25, 2018 through October 16, 2018.” Payroll records indicate this leave
8 was classified as FMLA/CFRA leave from April 25, 2018 through June 9, 2018.

9 323. On June 9, 2018, Plaintiff was removed from payroll and her health benefits were terminated
10 without notice. Plaintiff received no notice of the termination of her removal from payroll or of the
11 termination of her health insurance benefits from EMPLOYER Defendants. Rather, she learned of the
12 termination of health benefits from one of her medical providers.

13 324. The only notice Plaintiff received from EMPLOYER Defendants concerning her removal
14 from payroll and the termination of her health insurance came over a month later, on July 13, 2018, when
15 David Trujillo sent Plaintiff an email in which he wrote:

16 Your department has changed your status to Part Time Intermittent and that
17 is what has cancelled your benefits.

18 This status automatically cancels benefits by the payroll file provided to our
19 TPA.

20 This removal of Plaintiff from payroll and termination of Plaintiff’s health insurance (both done without
21 notice) was due, in part, to Plaintiff taking FMLA/CFRA from January 21 through February 11, 2018,
22 March 8 through April 9, 2018, and April 25 through June 9, 2018.

23 325. In November and December 2018 and January 2019, Plaintiff submitted numerous reports
24 from U.S. HealthWorks to EMPLOYER Defendants and Defendant BRENTE regarding her neurological
25 disability consisting of vertigo resulting from typhus, and of status as “temporarily partially disabled”
26 because she was not allowed to drive. The result of Plaintiff submitting these reports was for David Trujillo
27 and then Vivienne Swanigan to send letters stating that Plaintiff was “absent without leave,” and threatening
28 loss of Plaintiff’s job. This was due, in part, to Plaintiff taking FMLA/CFRA from January 21 through
February 11, 2018, March 8 through April 9, 2018, and April 25 through June 9, 2018.

1 326. On December 1, 2018, Plaintiff filed a workers' compensation claim with Defendant CITY
2 ATTORNEY'S OFFICE for in typhus disease. On her workers' compensation complaint form, Plaintiff
3 wrote:

4 There is a typhus outbreak in downtown LA. Sometime the week of
5 10/16/18 while at my office I was bitten by one or more fleas. On November
6 1, 2018, I became violently ill. On 11/27/18, my primary care physician
7 phoned me and informed me I tested positive for typhus.

8 Under "What can the City of Los Angeles do to help prevent similar
9 accidents/incidents?" Plaintiff wrote "Fumigate City Hall East for fleas-
10 immediately. This is a horrible condition."

11 327. From November 2018 through January 2019, EMPLOYER Defendants refused to reasonably
12 accommodate Plaintiff's disability of not being able to drive because of the vertigo, dizziness, and
13 disequilibrium (neurological disabilities which were caused by typhus). EMPLOYER Defendants have a
14 legal duty to reasonably accommodate Plaintiff's commute-related limitations. This refusal to
15 accommodate Plaintiff's disability of not being able to drive is due, in part, to Plaintiff taking FMLA/CFRA
16 from January 21 through February 11, 2018, March 8 through April 9, 2018, and April 25 through June 9,
17 2018.

18 328. After contracting typhus, and after learning that the building where she worked – City Hall
19 East – which is within two blocks of the "Typhus Zone" as designated by the County of Los Angeles – was
20 not being fumigated even though she had repeatedly requested that the building be fumigated before she
21 returns to work. Even though Defendant CITY began fumigating other buildings in October 2018,
22 EMPLOYER Defendants have failed and refused to fumigate City Hall East. Plaintiff has pointed out that,
23 because of her auto-immune disorder, she is at greater risk than others for re-contracting typhus, but
24 EMPLOYER Defendants have still failed and refused to fumigate City Hall East. This refusal by
25 EMPLOYER Defendants to fumigate City Hall East is due, in part, to Plaintiff taking FMLA/CFRA from
26 January 21 through February 11, 2018, March 8 through April 9, 2018, and April 25 through June 9, 2018.
27 On December 1, 2018, Plaintiff filed a workers' compensation claim with Defendant CITY ATTORNEY'S
28 OFFICE for in typhus disease. On her workers' compensation complaint form, Plaintiff wrote:

 There is a typhus outbreak in downtown LA. Sometime the week of
10/16/18 while at my office I was bitten by one or more fleas. On November
1, 2018, I became violently ill. On 11/27/18, my primary care physician

1 phoned me and informed me I tested positive for typhus.

2 Under “What can the City of Los Angeles do to help prevent similar
3 accidents/incidents?” Plaintiff wrote “Fumigate City Hall East for fleas-
 immediately. This is a horrible condition.”

4 pp) During January and February 2019, U.S. HealthWorks continued designating Plaintiff temporarily
5 partially disabled from December 20, 2018 through February 11, 2019.)

6 qq) Having obtained new accommodation from Defendants for her temporarily partial disability which
7 has been caused by the typhus, and any indication that EMPLOYER Defendants had any plans to
8 fumigate City Hall East, Plaintiff began speaking to the media. Plaintiff was interviewed by many
9 television stations, radio stations, and newspapers as discussed in detail above.

10 rr) Plaintiff’s first interview with media was her January 29, 2019 interview with Joel Grover of NBC
11 4 local news regarding her typhus. On January 30, 2019, EMPLOYER Defendants were contacted
12 by Joel Grover.

13 ss) The next day, on January 31, 2019, Defendants did the exact opposite thing from accommodating
14 Plaintiff’s disability. David Trujillo sent an email to Plaintiff in which he stated “driving or
15 operating heavy equipment” were not “essential functions” of Plaintiff’s Deputy City Attorney
16 position, and that Plaintiff was expected to report for work on Monday, February 4, 2019. In fact,
17 Defendant BRENTE had stated in his June 12, 2017 memo titled “Essential Functions of Deputy
18 City Attorneys in Police Litigation Unit”:

19 It should be noted that taking and defending depositions often involves travel
20 both in southern California and across the United States . . . the duties
21 include defending the case at trial, which involves travel to and from court
22 (by walking or car) . . . While most of the cases are venued in downtown
 Los Angeles, some federal cases are assigned to the Santa Ana and Riverside
 courthouses, and some superior court cases are assigned to the San Fernando
 Valley or other branch courthouses.

23 329. Also on January 31, 2019, Plaintiff appeared on NBC Channel 4 News at 11:00 p.m. where
24 she spoke about the typhus she had contracted while working at City Hall East.

25 330. As Plaintiff continued to speak out about the typhus investigation at City Hall for the next
26 few weeks, and about the injuries she had endured, Defendants continued not only to fail to accommodate
27 Plaintiff’s disability, but also retaliated against Plaintiff.

28 331. On February 6, 2019 (only three workdays after EMPLOYER Defendants were served with

1 the Complaint in this matter, and within days of Plaintiff speaking to various media about contracting
2 typhus while working at City Hall East) David Trujillo sent Plaintiff an email notifying her that she was
3 expected to report to her new supervisor Julie San Juan at her new work location at the Pacific Office,
4 Criminal Branch (11701 S. La Cienega Boulevard, Los Angeles 90045) on February 11 (even though
5 Plaintiff had previously submitted documents from U.S. HealthWorks stating that she was “temporarily
6 partially disabled” and was “not to drive or operate heavy machinery” through February 11, 2019). In this
7 position, Plaintiff would be handling misdemeanor arraignments at the Pacific Office, Criminal Branch.
8 A change in assignment from working in the Police Litigation Unit, where she was defending Defendant
9 CITY in million-dollar cases, to a position handling misdemeanor arraignments (which is an entry-level job)
10 was humiliating and demeaning. This was clearly a change to an inferior position, with much less status
11 than the position Plaintiff had held with the Police Litigation Unit, and was therefore an involuntary and
12 wrongful demotion. Additionally, this demotion did nothing to address the accommodation Plaintiff needed
13 relating to her inability to drive due to vertigo caused by the typhus. Plaintiff alleges that this February 6,
14 2019 demotion was in direct retaliation for her continued complaining, both internally and to the media,
15 about the typhus epidemic and, specifically, at City Hall East. Plaintiff further alleges on information and
16 belief that Defendant FEUER directed Plaintiff’s demotion from working in the Police Litigation Unit to
17 handling misdemeanor arraignments at the LAX courthouse for the Pacific Office, Criminal Branch.

18 332. Also on February 7, 2019, Plaintiff was featured on KTLA (Channel 5), again speaking out
19 about the typhus epidemic and about the fact that she contracted typhus while working at City Hall East.
20 That same day, Plaintiff was featured on the front page of the *Daily Breeze*, in an article titled “Deputy LA
21 City Attorney in San Pedro goes public with typhus bout prompting City Hall to take notice.”

22 333. The very next day (February 8, 2019), knowing Plaintiff had previously submitted
23 documents from U.S. HealthWorks stating that she was “temporarily partially disabled” and was “**not to**
24 **drive** or operate heavy machinery” **through February 11, 2019**, David Trujillo sent Plaintiff an email with
25 instructions regarding where she was to **park on February 11**, when she reported for her new (demoted)
26 assignment handling misdemeanor arraignments at the Pacific Office, Criminal Branch.

27 334. On February 22, 2019, the Acting Human Resources Director, Stephanie B. Ybarra, sent
28 Plaintiff a letter advising her that her “request for a personal medical leave of absence extension” had been

1 “approved as a reasonable accommodation for the continuous period of February 11, 2019 through March
2 7, 2019.” In a total denial of their part in causing Plaintiff’s injuries, EMPLOYER Defendants continue
3 to use the terms “personal medical leave of absence” and “reasonable accommodation” even though
4 Plaintiff was unable to work because of an on-the-job injury, Plaintiff had filed a workers’ compensation
5 claim, and the City-designated infectious disease specialist had stated Plaintiff was unable to work. The
6 letter was also emailed to Julie San Juan, Plaintiff’s new supervisor at her new assignment at the Pacific
7 Office, Criminal Branch.

8 335. Defendants continued discriminating against Plaintiff for taking FMLA/CFRA leave by
9 doing things such as failing and/or refusing to provide the reasonable accommodations Plaintiff required
10 (and to which she was entitled) in order to return to work, misrepresenting the status of the ergonomic items
11 to Plaintiff, making false promises to Plaintiff regarding the ergonomic items, refusing to accommodate
12 Plaintiff’s need to sleep longer hours than the average person, refusing to accommodate Plaintiff’s
13 neurological disabilities relating to typhus, and even refusing to fumigate City Hall East. To this date,
14 Defendants have failed to accommodate Plaintiff’s physical disabilities.

15 336. Defendants also discriminated against Plaintiff for taking FMLA/CFRA leave by failing and
16 refusing to pay her holiday and sick leave pay during 2019.

17 337. Defendants also continued to discriminated against Plaintiff for (among other things) taking
18 FMLA/CFRA leave from April 25, 2018 through June 9, 2018 (and for taking prior FMLA/CFRA leave)
19 by failing and/or refusing to promote Plaintiff. To this date, Defendants have failed and/or refused to
20 promote Plaintiff.

21 **E. The Resulting Damages**

22 338. As a result of and substantially motivated by Plaintiff taking FMLA/CFRA leave,
23 Defendants and each of them subjected Plaintiff to discriminatory treatment and/or adverse employment
24 actions as described herein.

25 339. As a direct and legal result of Defendants’ unlawful discrimination and related actions and
26 omissions, Plaintiff has suffered economic damages pursuant to Civil Code sections 3281, 3283, and 3333.
27 Plaintiff has and will continue to suffer a loss of earnings and benefits, and other employment benefits and
28 job opportunities. Plaintiff has suffered economic damages because of not being promoted year after year

1 when she should have been, because of being required to exhaust her paid vacation and paid sick leave,
2 because of having to take unpaid leave, and because of having to pay her own medical expenses when
3 Defendants terminated her health insurance, all as a result of Defendants' unlawful actions.

4 340. As a direct and legal result of Defendants' unlawful acts and omissions, Plaintiff has also
5 suffered and continues to suffer an exacerbation of her lumbar spine injury and her other physical injuries,
6 conditions and disabilities, pain and suffering, mental anguish, depression, anxiety, loss of self-esteem,
7 anhedonia, humiliation, damage to her reputation, and general emotional distress.

8 341. As a further direct and legal result of the acts and omissions of Defendants, Plaintiff has been
9 forced and/or will be forced to incur expenses for medical care including, but not limited to, treatment by
10 physicians and other health professionals, medical examinations, medical procedures, laboratory costs,
11 prescription medications, and other incidental medical expenses. Plaintiff is therefore entitled to
12 compensatory damages in an amount to be proven at trial.

13 342. The aforementioned acts by DOE Defendants were willful, wanton, malicious, intentional,
14 oppressive and/or despicable and were done in willful and conscious disregard of the rights, welfare, and
15 safety of Plaintiff, thereby justifying the awarding of punitive and exemplary damages against Defendants
16 DOES 1 through 10 (who are **not** public entities) in an amount to be determined at the time of trial.

17 343. As a direct result of Defendants' unlawful acts and omissions, Plaintiff has incurred and
18 continues to incur attorneys' fees, expert witness fees, and costs in an amount to be proven, to which she
19 is also entitled, pursuant to Government Code section 12965(b).

20
21 **NINTH CAUSE OF ACTION**
22 **INTERFERENCE IN VIOLATION OF**
23 **THE CALIFORNIA FAMILY RIGHTS ACT**

24 **[Including, specifically, Gov. Code § 12945.2(t), and 2 Cal. Code Regs. § 11094]**

25 **[Against EMPLOYER Defendants and DOE Defendants]**

26 344. Plaintiff realleges and incorporates herein by reference Paragraphs 1 through 164 above, as
27 though fully set forth in this cause of action.

28 345. Pursuant to the California Family Rights Act, it " shall be an unlawful employment practice

for an employer to interfere with, restrain, or deny the exercise of, or the attempt to exercise, any right provided under this section.” [Gov. Code § 12945.2(t).]

A. Interference With March 11, 2016 through June 5, 2016 FMLA/CFRA Leave

346. Plaintiff took FMLA/CFRA leave from March 11, 2016 through June 5, 2016 related to her reproductive disabilities.

347. As discussed in detail above, Defendants (through Wanda Hudson) interfered with Plaintiff’s FMLA/CFRA leave by removing her from payroll, effective May 2, 2016, while she was home recovering from surgery, and after she had received written assurances from Cristina Sarabia that her FMLA/CFRA leave was approved from March 8, 2016 “through a date not yet determined.”

348. Defendants (through Wanda Hudson) interfered with Plaintiff’s FMLA/CFRA leave by repeatedly demanding medical information which had already been provided, and by threatening Plaintiff that if she did not provide further medical details, she would be classified as “AWOL.”

349. Defendants (through Defendant BRENTE) interfered with Plaintiff’s FMLA/CFRA leave by failing and refusing to assign another attorney to cover Plaintiff’s cases, so that deadlines and due dates were missed in some cases which were still assigned to Plaintiff, causing Plaintiff to work part-time from home without being paid, and to feel pressured to return to work.

B. Interference With January 21, 2018 through February 11, 2018 Intermittent FMLA/CFRA Leave

350. Plaintiff took intermittent FMLA/CFRA leave from January 21, 2018 through February 11, 2018.

351. Defendant BRENTE interfered with Plaintiff taking this leave by failing to assign sufficient personnel to cover Plaintiff’s cases, so that deadlines and due dates were missed in some cases which were still assigned to Plaintiff, causing Plaintiff to feel pressured to return to work.

C. Interference With March 8, 2018 through April 9, 2018 FMLA/CFRA Leave

352. Plaintiff took FMLA/CFRA leave from March 8, 2018 through April 9, 2018. Plaintiff was initially attempting to work from home to accommodate her disabilities, but on March 8, 2018, Defendant BRENTE sent Plaintiff an email in which he admonished her for not keeping up with her work while she was in excruciating pain and trying to work part-time from home. As a result, Plaintiff was forced to go

1 on FMLA/CFRA leave, from March 8, 2018 through April 9, 2018. During this time, Defendant BRENTE
2 continued to fail to assign sufficient personnel to cover Plaintiff's cases, so that deadlines and due dates
3 were missed in some cases which were still assigned to Plaintiff, causing Plaintiff to feel pressured to return
4 to work.

5 **D. Interference With April 25, 2018 through October 16, 2018 FMLA/CFRA Leave**

6 353. Plaintiff took FMLA/CFRA leave from April 25, 2018 through October 16, 2018.

7 354. Defendants interfered with Plaintiff taking this leave first by terminating her health insurance
8 effective June 9, 2018. Then, on July 13, 2018, David Trujillo sent her an email which said:

9 Your department has changed your status to Part Time Intermittent and that
10 is what has cancelled your benefits.

11 This status automatically cancels benefits by the payroll file provided to our
12 TPA.

13 Amazingly, although EMPLOYER Defendants had removed Plaintiff from payroll and terminated her
14 health insurance benefits on June 9, 2018, they did not bother to tell Plaintiff until over a month later, on
15 July 13, 2018. Defendants later changed Plaintiff's health insurance from Anthem to Kaiser without telling
16 her, and then on January 1, 2017, once again terminated Plaintiff's health insurance without telling her.

17 355. Having her health insurance benefits terminated and then being taken off payroll caused
18 Plaintiff to feel an enormous amount of pressure to return to work, and generally exacerbated Plaintiff's
19 disabilities and injuries.

20 **E. The Resulting Damages**

21 356. Defendants and each of them interfered with Plaintiff's exercise of her rights pursuant to
22 the CFRA.

23 357. As a direct and legal result of Defendants' unlawful interference and related actions and
24 omissions, Plaintiff has suffered economic damages pursuant to Civil Code sections 3281, 3283, and 3333.
25 Plaintiff has and will continue to suffer a loss of earnings and benefits, and other employment benefits and
26 job opportunities. Plaintiff has suffered economic damages because of not being promoted year after year
27 when she should have been, because of being required to exhaust her paid vacation and paid sick leave,
28 because of having to take unpaid leave, and because of having to pay her own medical expenses when
Defendants terminated her health insurance, all as a result of Defendants' unlawful actions.

358. As a direct and legal result of Defendants' unlawful acts and omissions, Plaintiff has also suffered and continues to suffer an exacerbation of her lumbar spine injury and her other physical injuries, conditions and disabilities, pain and suffering, mental anguish, depression, anxiety, loss of self-esteem, anhedonia, humiliation, damage to her reputation, and general emotional distress.

359. As a further direct and legal result of the acts and omissions of Defendants, Plaintiff has been forced and/or will be forced to incur expenses for medical care including, but not limited to, treatment by physicians and other health professionals, medical examinations, medical procedures, laboratory costs, prescription medications, and other incidental medical expenses. Plaintiff is therefore entitled to compensatory damages in an amount to be proven at trial.

360. The aforementioned acts by DOE Defendants were willful, wanton, malicious, intentional, oppressive and/or despicable and were done in willful and conscious disregard of the rights, welfare, and safety of Plaintiff, thereby justifying the awarding of punitive and exemplary damages against Defendants DOES 1 through 10 (who are **not** public entities) in an amount to be determined at the time of trial.

361. As a direct result of Defendants' unlawful acts and omissions, Plaintiff has incurred and continues to incur attorneys' fees, expert witness fees, and costs in an amount to be proven, to which she is also entitled, pursuant to Government Code section 12965(b).

TENTH CAUSE OF ACTION

FAILURE TO TAKE ALL REASONABLE STEPS TO PREVENT DISCRIMINATION AND HARASSMENT IN VIOLATION OF THE FAIR EMPLOYMENT AND HOUSING ACT

[Including, specifically, Gov. Code § 12940(k)]

[Against EMPLOYER Defendants and DOE Defendants]

362. Plaintiff realleges and incorporates herein by reference Paragraphs 1 through 164 above, as though fully set forth in this cause of action.

363. At all times herein mentioned, the FEHA (Gov. Code §§ 12900, *et seq.*) was in full force and effect and binding on Defendants. The FEHA states that it is unlawful “[f]or an employer . . . to fail to take all reasonable steps necessary to prevent discrimination and harassment from occurring.” [Gov. Code § 12940(k).]

1 364. During the entire time Plaintiff was employed with EMPLOYER Defendants and DOE
2 Defendants, each of their respective agents, employees, directors, managers, and supervisors failed to take
3 all reasonable steps to prevent harassment and discrimination, and created an environment where such
4 discrimination and harassment was condoned, encouraged, tolerated, sanctioned, and ratified.

5 365. During the entire relevant period, EMPLOYER Defendants and DOE Defendants and their
6 respective agents, employees, directors, managers, and supervisors violated Government Code section
7 12940(k) by, among other things, committing the following acts and failures to act:

8 a) Having no policies, practices, and procedures, and/or failing to implement policies, practices,
9 and procedures, and/or having ineffective policies, practices, and procedures regarding Defendants'
10 obligations to refrain from discrimination, harassment, and retaliation.

11 b) Failing to follow the policies, practices, and procedures which were in place.

12 c) Failing to investigate when discrimination, harassment, and retaliation were repeatedly
13 reported by Plaintiff.

14 d) Failing to provide adequate training, education, and/or information to their personnel, and
15 most particularly to management and supervisory personnel, regarding policies and procedures regarding
16 preventing discrimination, harassment, and retaliation.

17 366. Defendants failed to take reasonable steps to prevent discrimination, harassment, and
18 retaliation from being inflicted upon Plaintiff, resulting in Plaintiff being discriminated against, harassed,
19 and retaliated against in violation of the FEHA. Even though Plaintiff repeatedly complained to Defendant
20 BRENTE (Plaintiff's immediate supervisor at the time), and to numerous persons in the Human Resources
21 Department and Personnel Department about discrimination, harassment, and retaliation which was
22 occurring, Defendants failed to take appropriate action to prevent the discrimination, harassment, and
23 retaliation.

24 367. As a result of and substantially motivated by Plaintiff's sex, physical disabilities, need for
25 reasonable accommodations, and taking FMLA/CFRA leave, Defendants and each of them subjected
26 Plaintiff to discriminatory, harassing, and/or retaliatory treatment and/or adverse employment actions as
27 described herein.

28 368. It is particularly egregious that the unlawful discrimination and harassment of Plaintiff was

1 executed and/or directed by persons who were either licensed attorneys, or employees of the Human
2 Resources/Personnel Department, or persons who fit both these categories. Some of the attorneys involved
3 in the unlawful discrimination and harassment of Plaintiff were in very high positions with Defendant CITY
4 ATTORNEY'S OFFICE (such as Vivienne Swanigan, Managing Assistant City Attorney and Supervising
5 Attorney of the Labor Relations Division who actually denied that Defendant CITY ATTORNEY'S
6 OFFICE had a duty to reasonably accommodate Plaintiff's disability of being unable to drive due to her
7 severe vertigo). The unlawful actions in this case were **not** accidental, but were planned and executed by
8 agents and/or employees of EMPLOYER Defendants who were well aware that the activities were
9 unlawful.

10 369. As a direct and legal result of Defendants' unlawful discrimination, harassment, and related
11 actions and omissions, Plaintiff has suffered economic damages pursuant to Civil Code sections 3281, 3283,
12 and 3333. Plaintiff has and will continue to suffer a loss of earnings and benefits, and other employment
13 benefits and job opportunities. Plaintiff has suffered economic damages because of not being promoted
14 year after year when she should have been, because of being required to exhaust her paid vacation and paid
15 sick leave, because of having to take unpaid leave, and because of having to pay her own medical expenses
16 when Defendants terminated her health insurance, all as a result of Defendants' unlawful actions.

17 370. As a direct and legal result of Defendants' unlawful acts and omissions, Plaintiff has also
18 suffered and continues to suffer an exacerbation of her lumbar spine injury and her other physical injuries,
19 conditions and disabilities, pain and suffering, mental anguish, depression, anxiety, loss of self-esteem,
20 anhedonia, humiliation, damage to her reputation, and general emotional distress.

21 371. As a further direct and legal result of the acts and omissions of Defendants, Plaintiff has been
22 forced and/or will be forced to incur expenses for medical care including, but not limited to, treatment by
23 physicians and other health professionals, medical examinations, medical procedures, laboratory costs,
24 prescription medications, and other incidental medical expenses. Plaintiff is therefore entitled to
25 compensatory damages in an amount to be proven at trial.

26 372. The aforementioned acts by DOE Defendants were willful, wanton, malicious, intentional,
27 oppressive and/or despicable and were done in willful and conscious disregard of the rights, welfare, and
28 safety of Plaintiff, thereby justifying the awarding of punitive and exemplary damages against Defendants

DOES 1 through 10 (who are **not** public entities) in an amount to be determined at the time of trial.

373. As a direct result of Defendants' unlawful acts and omissions, Plaintiff has incurred and continues to incur attorneys' fees, expert witness fees, and costs in an amount to be proven, to which she is also entitled, pursuant to Government Code section 12965(b).

ELEVENTH CAUSE OF ACTION

RETALIATION IN VIOLATION OF THE FIRST AMENDMENT

[Against EMPLOYER Defendants and DOE Defendants]

374. Plaintiff realleges and incorporates herein by reference Paragraphs 1 through 164 above, as though fully set forth in this cause of action.

375. On December 20, 2018, when Plaintiff learned that Defendant CITY was not planning to fumigate the City Hall East Building, she made a complaint to the California Division of Occupational Safety and Health (DOSH), better known as Cal/OSHA, regarding the typhus outbreak, and the fact that she contracted typhus. Also on December 20, 2018, Cal/OSHA sent a letter to Defendant CITY ATTORNEY'S OFFICE, notifying it that a complaint had been filed and giving it five days to respond. Plaintiff has been informed and therefore believes that Cal/OSHA has begun an investigation into her complaint.

376. In early January 2019, Plaintiff contacted the Los Angeles County Vector Control District and advised them that she had contracted typhus while working at City Hall East.

377. On January 29, 2019, Plaintiff was interviewed by Joel Grover of NBC 4 local news regarding her typhus. Plaintiff spoke out about the rat and flea infestation at City Hall and City Hall East, and about the typhus contagion in downtown Los Angeles. Plaintiff described the agonizing pain she endured because of having contracted typhus and emphasized the importance of Defendant CITY and Defendant CITY ATTORNEY'S OFFICE taking immediate action to get rid of the typhus-carrying fleas. On January 30, 2019, EMPLOYER Defendants were contacted by Joel Grover for comment.

378. The next day, on January 31, 2019, David Trujillo sent an email to Plaintiff in which he stated "driving or operating heavy equipment" were not "essential functions" of Plaintiff's Deputy City Attorney position, **and that Plaintiff was expected to report for work on Monday, February 4, 2019.**

1 In fact, Defendant BRENTÉ had stated in his June 12, 2017 memo titled “Essential Functions of Deputy
2 City Attorneys in Police Litigation Unit”:

3 It should be noted that taking and defending depositions often involves travel
4 both in southern California and across the United States . . . the duties
5 include defending the case at trial, which involves travel to and from court
6 (by walking or car) . . . While most of the cases are venued in downtown
Los Angeles, some federal cases are assigned to the Santa Ana and Riverside
courthouses, and some superior court cases are assigned to the San Fernando
Valley or other branch courthouses.

7 Plaintiff alleges that this January 31, 2019 order that she report for work was in retaliation both for Plaintiff
8 filing and serving her DFEH Complaint and for her speaking to the media about contracting typhus at City
9 Hall East and the safety issues which existed at City Hall East. Plaintiff further alleges on information and
10 belief that Defendant FEUER directed that the January 31, 2019 order for Plaintiff to report to work be
11 made.

12 379. Also on January 31, 2019, Plaintiff appeared on NBC Channel 4 News at 11:00 p.m. where
13 she spoke about the typhus she had contracted while working at City Hall East, saying the things described
14 in paragraph xx above.

15 380. On February 1, 2019, Plaintiff sent an email to David Trujillo, in reply to his January 31,
16 2019 email ordering her to report to work. In her email, Plaintiff stated, among other things:

17 The conditions in City Hall East are a threat to the health of City employees
18 and to the public health. The City Attorney’s office has been contacted by
19 CalOSHA about the threat to public health and has ignored their letter. From
20 my understanding, the City Attorney has not even notified other departments
that a City Attorney employee contracted typhus at City Hall East. No one
has notified the Mayor’s office.

21 The fact the City Attorney has known of this health threat since November
22 2018; known that a City employee has been diagnosed with typhus since
23 December 2018; was contacted by Cal/OSHA December 20, 2018; has my
24 medical records proving I have Typhus since January 10, 2019; and has done
25 nothing about protecting the employees or the public entering the building
26 is obscene. The City Attorney has not even notified others in the building
that an employee was infected so they know of their exposure there or they
can take precautions. I would also add that the rat problem at City Hall East
is not new. This has been going on for years, and the City and the City
Attorney’s Office allowed the infestation to get so out of control that people
are being exposed to a disease which is most often associated with
devastating epidemics from the Middle Ages.

27 I have been employed by the City Attorney’s Office for over 22 years, and
28 am being treated like the trash which is lining the streets around City Hall
East. I seriously doubt a male who is a 22-year deputy city attorney and

1 contracted Typhus on the job would be treated as I have been and am being
2 treated. I should not be surprised, though, as this discrimination on the basis
3 of sex has been consistent behavior by the City Attorney's Office over the
4 years.

5 I implore the City and the City Attorney's Office to protect the City
6 employees, clients, co-counsel and opposing counsel, witnesses, contractors,
7 and the public from this public health crisis you are allowing to continue.

8 381. On February 1, 2019, Plaintiff was featured in the *Daily Mail* in an article called "LA City
9 Hall Official Is the Latest Struck by Typhus in the City's Raging Epidemic," where she again spoke out
10 about the rat and flea investigation at City Hall and City Hall East, about the typhus contagion, and about
11 the pain typhus had caused to her. The article reads, "Liz believes the rats that nestle in the building's trash
12 were carrying fleas that transmitted the disease." Plaintiff was also quoted as saying, "There are enormous
13 rats." The article further reads: "She has yet to go back to work, and is calling on the city to fumigate the
14 building before she does 'because I thought I was going to die.'"

15 382. On February 4, 2019, Plaintiff was interviewed on John and Ken (KFI AM 640 Radio and
16 Podcast) and she spoke at length about the typhus outbreak, about the fact that she had contracted typhus
17 while working at City Hall East, and about the fact that Defendant CITY and Defendant CITY
18 ATTORNEY'S OFFICE had refused to fumigate.

19 383. On or about February 5, 2019, Plaintiff told Oscar Winslow, President of the Los Angeles
20 City Attorneys Association (LACAA), about her typhus diagnosis. Mr. Winslow was very surprised, since
21 no one at Defendant CITY ATTORNEY'S OFFICE had told its employees anything about protecting
22 themselves from typhus-carrying fleas. Something as simple as advising employees to wear boots would
23 have provided them a small amount of protection.

24 384. On February 6, 2019 (within days of Plaintiff speaking to various media about contracting
25 typhus while working at City Hall East) David Trujillo sent Plaintiff an email notifying her that she was
26 expected to report to her new supervisor Julie San Juan at her **new work location** at the Pacific Office,
27 Criminal Branch (11701 S. La Cienega Boulevard, Los Angeles 90045) on February 11 (even though
28 Plaintiff had previously submitted documents from U.S. HealthWorks stating that she was "temporarily
partially disabled" and was "not to drive or operate heavy machinery" through February 11, 2019). In this
position, Plaintiff would be handling misdemeanor arraignments at the Pacific Office, Criminal Branch.

1 A change in assignment from working in the Police Litigation Unit, where she was defending Defendant
2 CITY in million-dollar cases, to a position handling misdemeanor arraignments (which is an entry-level job)
3 was humiliating and demeaning. This was clearly a change to an inferior position, with much less status
4 than the position Plaintiff had held with the Police Litigation Unit, and was therefore an involuntary and
5 wrongful demotion. Additionally, this demotion did nothing to address the accommodation Plaintiff needed
6 relating to her inability to drive due to vertigo caused by the typhus. Plaintiff alleges that this February 6,
7 2019 demotion was in direct retaliation for her continued complaining, both internally and to the media,
8 about the typhus epidemic and, specifically, the flea-infestation at City Hall East. Plaintiff further alleges
9 on information and belief that Defendant FEUER directed Plaintiff's demotion from working in the Police
10 Litigation Unit to handling misdemeanor arraignments at the LAX courthouse for the Pacific Office,
11 Criminal Branch.

12 385. On February 7, 2019, Plaintiff appeared on the Channel 5 11:00 a.m. News, on the Channel
13 11 News at 1:00 p.m., and on John and Ken (on KFI AM 640 Radio and Podcast) at 3:00 p.m.

14 386. Also on February 7, 2019, Plaintiff was featured in an article in the *Los Angeles Times* titled
15 "L.A. City Hall, overrun with rats, might remove all carpets amid typhus fears." This article discusses the
16 rat infestation at City Hall and a proposition to remove all of the carpet from City Hall and the adjoining
17 buildings. Plaintiff was featured in the article and was quoted as saying:

18 I am actually terrified of entering the building again until they do something"
19 and "that carpet is years old – and, more than likely, it has fleas and flea eggs
20 in it" and "I would really like to see the building fumigated for both rats and
fleas . . . I hope they don't wait.

21 387. Also on February 7, 2019, Plaintiff was featured on KTLA (Channel 5), again speaking out
22 about the typhus epidemic and about the fact that she contracted typhus while working at City Hall East.
23 That same day, Plaintiff was featured on the front page of the *Daily Breeze*, in an article titled "Deputy LA
24 City Attorney in San Pedro goes public with typhus bout prompting City Hall to take notice."

25 388. The very next day (February 8, 2019), knowing Plaintiff had previously submitted
26 documents from U.S. HealthWorks stating that she was "temporarily partially disabled" and was "**not to**
27 **drive** or operate heavy machinery" **through February 11, 2019**, David Trujillo sent Plaintiff an email with
28 instructions regarding where she was to **park on February 11**, when she reported for her new (demoted)

1 assignment handling misdemeanor arraignments at the Pacific Office, Criminal Branch.

2 389. On Saturday, February 9, 2019, Plaintiff was mentioned in an article in the *Los Angeles*
3 *Times* titled “L.A. officials target vermin at City Hall.” On Sunday, February 10, 2019, Plaintiff was
4 featured in an article on the front page of the “California” section titled, “She’s ‘the canary in the coal
5 mine.’” Plaintiff’s photograph was included, with a caption which read: “L.A. DEPUTY CITY ATTY.
6 Elizabeth Greenwood said flea bites at City Hall gave her typhus. Her bosses didn’t believe she had the
7 disease, she said.”

8 390. On February 11, 2019, Plaintiff once again went to U.S. HealthWorks, where she was once
9 again designated as “temporarily partially disabled.” Since Plaintiff was going to see the City-designated
10 infectious disease specialist on February 14, the doctor at U.S. HealthWorks extended her disability period
11 only through February 14, 2019. Plaintiff emailed the Work Status Report and Injury Status Report to HR
12 Analyst David Trujillo on February 11, 2019.

13 391. Also on February 11, 2019, Plaintiff sent David Trujillo a very long email, stating her
14 objections to the demotion to the Pacific Office, Criminal Branch (handling misdemeanor arraignments at
15 the LAX courthouse). Among other things, Plaintiff wrote:

16 In early December 2018, I reported the typhus danger to Los Angeles County
17 Health Department, Acute Communicable Disease Department. On
18 December 20, 2018, I reported the typhus danger at City Hall East, and the
19 City Attorney’s refusal to take any action to protect its employees, to
Cal/OSHA. In early January 2019, I reported the same health dangers the
City Attorney was knowingly allowing to persist to Los Angeles County
Vector Control District.

20 I also filed a complaint with the Department of Fair Employment and
21 Housing, which was served on the City Attorney’s Office on January 17.
22 Later in January, after the City Attorney’s office continued to stonewall me
23 over the public health issue it was allowing to persist, I started talking to
24 NBC. I talked to Joel Grover about the failure of the City Attorney’s Office
25 to protect me and then for the past several months its employees (and the
members of the public who visit City Hall and City Hall East) from typhus.
We discussed at length the City Attorney’s Office had known about this for
months and had not even sent a department wide email warning employees
about the danger they faced.

26 The day after the City Attorney’s administration received a call from Joel
27 Grover regarding safety precautions taken after my diagnosis, on January 31,
28 you sent me an email once again ordering me back to work “or else,” despite
the orders from U.S. HealthWorks – the City’s own industrial medicine
provider. You falsely stated “driving or operating heavy equipment” is not
an essential function of my job. I replied to your email by my email dated

1 February 4. In case you do not recall the contents of my email, I stated:

2 The City of Los Angeles created an environment in which I was injured,
3 badly. The standard you should be looking at is one of reasonable
4 accommodation, not “essential function.” However, since you brought it up,
5 driving a vehicle is an essential function of my job. I am required to attend
6 depositions as well as depose plaintiffs, defendants, and witnesses offsite.
7 Further, I am required to attend court hearings all over Los
8 Angeles, Riverside, and Orange Counties. . . .

9 How the City Attorney could knowingly expose its employees to this
10 horrible bacteria is shocking to me. The fact it knowingly exposes the public,
11 who enters the building every day to conduct business, is criminal. The fact
12 that you, Vivienne Swanigan, and the City Attorney’s office are retaliating
13 against me for standing up for my legal rights and for speaking out and
14 telling people the danger they face walking into that building is
15 unconscionable. . . .

16 My loud and repeated whistling to the Department of Fair Employment and
17 Housing, the Los Angeles Superior Court, Cal/OSHA, the Los Angeles
18 Vector Control District and the media has resulted not in the City Attorney’s
19 Office doing the right (and smart) thing, but instead in you (and Vivienne
20 Swanigan) sending the February 6, 2019 email in which you advise me that
21 I am being transferred to the airport courthouse, where I will be a
22 misdemeanor line deputy doing misdemeanor arraignments. This is so
23 obviously a demotion it constitutes unlawful retaliation under common law
24 and several sections of the Labor Code. (My attorney is currently amending
25 the lawsuit to include the latest acts against me.)

26 The City of Los Angeles created an environment in which I was injured,
27 badly. The standard you should be looking at is one of reasonable
28 accommodation, not “essential function.” However, since you brought it up,
driving a vehicle is an essential function of my job. I am required to attend
depositions as well as depose plaintiffs, defendants, and witnesses offsite.
Further, I am required to attend court hearings all over Los
Angeles, Riverside, and Orange Counties. . . .

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horrible bacteria is shocking to me. The fact it knowingly exposes the public,
who enters the building every day to conduct business, is criminal. The fact
that you, Vivienne Swanigan, and the City Attorney’s office are retaliating
against me for standing up for my legal rights and for speaking out and
telling people the danger they face walking into that building is
unconscionable. . . .

My loud and repeated whistling to the Department of Fair Employment and
Housing, the Los Angeles Superior Court, Cal/OSHA, the Los Angeles
Vector Control District and the media has resulted not in the City Attorney’s
Office doing the right (and smart) thing, but instead in you (and Vivienne
Swanigan) sending the February 6, 2019 email in which you advise me that
I am being transferred to the airport courthouse, where I will be a
misdemeanor line deputy doing misdemeanor arraignments. This is so
obviously a demotion it constitutes unlawful retaliation under common law
and several sections of the Labor Code. (My attorney is currently amending
the lawsuit to include the latest acts against me.)

1 392. On February 13, 2019, Plaintiff filed a complaint with the U.S. Department of Occupational
2 Safety and Health Administration (Federal OSHA) alleging retaliation for filing a complaint with
3 Cal/OSHA regarding safety and health hazards at her workplace.

4 393. On February 14, 2019, Plaintiff saw infectious disease specialist Richard T. Sokolov, M.D.
5 (another City-designated doctor). Dr. Sokolov directed that Plaintiff be off work for the next three weeks.
6 Dr. Sokolov told Plaintiff that since she was still suffering from vertigo, her brain had not recovered from
7 the typhus, so she should not be working. Dr. Sokolov also stated it was his professional opinion that
8 Plaintiff had contracted the typhus while working at City Hall East.

9 394. Also on February 14, 2019, Plaintiff sent another very long email to David Trujillo. Among
10 other things, Plaintiff wrote:

11 I object to the term “Personal Medical Leave” since this is leave which is
12 necessary because of an on-the-job injury, and for which I have filed a
13 workers’ comp claim. I am also confused regarding what this means. It is
14 not clear to me whether the medical leave is intended to be from now until
15 the City Attorney’s Office comes up with an appropriate reasonable
16 accommodation, or whether it is only for Monday, Wednesday, and
17 Thursday of this week. That question is probably not that important now,
18 though, because today I saw the infectious disease doctor Richard Sokolov,
19 M.D. (who U.S. HealthWorks referred me to and will be my industrial injury
20 treating physician), and he put me off work for three weeks, effective today.
21 A copy of Dr. Sokolov’s prescription placing me off work is attached to this
22 email.

23 I cannot tell you how disappointing it is to see the level of indifference the
24 City Attorney’s office has shown to me, to the safety of the employees who
25 work in City Hall East, and to the health of the members of the public forced
26 to come to the building to conduct their business with the City. This office
27 has been on notice of my illness since November 27, 2018. Their failure to
28 act, their failure to even notify people of the danger they face walking into
the building is grossly negligent and a complete abdication of the public
trust.

395. On both Saturday, February 16, and Sunday, February 17, Plaintiff was again mentioned in
articles in the *Los Angeles Times* regarding the typhus epidemic and the rat and flea infestation at City Hall
and City Hall East.

396. On February 22, 2019, the Acting Human Resources Director, Stephanie B. Ybarra, sent
Plaintiff a letter advising her that her “request for a personal medical leave of absence extension” had been
“approved as a reasonable accommodation for the continuous period of February 11, 2019 through March

1 7, 2019.” In a total denial of their part in causing Plaintiff’s injuries, EMPLOYER Defendants continue
2 to use the terms “personal medical leave of absence” and “reasonable accommodation” even though
3 Plaintiff was unable to work because of an on-the-job injury, Plaintiff had filed a workers’ compensation
4 claim, and the City-designated infectious disease specialist had stated Plaintiff was unable to work. The
5 letter was also emailed to Julie San Juan, Plaintiff’s new supervisor at her new assignment at the Pacific
6 Office, Criminal Branch.

7 397. Later on February 22, 2019, Plaintiff sent an email to David Trujillo in which she wrote:

8 I received your letter granting personal medical leave until March 7, 2019,
9 due to my recovering from the typhus I contracted at work. My next doctor’s
10 appointment is March 14, 2019, so I am unsure how you wish for me to go
to work, or to where you expect me to report prior to my next doctor’s
appointment. I will not have a medical release before that appointment.

11 I have still not received a phone call from anyone at the City Attorney’s
12 office inquiring about my health. I mention that because it is shockingly rude
and insensitive. Nor have I received any communication whatsoever that
13 resembles a conversation about what would be a reasonable accommodation
after management let the health and cleanliness conditions in City Hall East
14 reach the point that I almost died. I have only received orders to show up at
different work sites for different jobs.

15 Our last communication involved my unilateral and involuntarily transfer.
I called my association for assistance because involuntary transfers involve
16 the MOU, and in my case also violate Whistleblower statutes. Someone told
Oscar Winslow, the Association President, that I requested the transfer. I did
17 not. That was a lie. I asked you with which supervisor I should begin the
grievance process. You replied characterizing my response as a refusal of
18 your reasonable accommodation but never answered my question about
which supervisor I should contact.

19 Based on your response I incorrectly assumed that transfer was not going to
20 happen. Julie San Juan was included in today’s email, but not Cory Brenté.
Should I assume the office is continuing with the illegal unilateral
21 involuntary transfer?

22 I look forward to your rapid response.

23 398. David Trujillo responded (on February 22) that the transfer to the Pacific Office, Criminal
24 Branch was “no longer happening,” although he gave no indication regarding whether anything *would* be
25 happening. EMPLOYER Defendants have still not accommodated Plaintiff’s disabilities, however.
26 EMPLOYER Defendants have not fumigated City Hall or City Hall East. They have not even removed the
27 carpeting. EMPLOYER Defendants have also not increased the custodial crews, and have not provided
28 employees and visitors to the building with any type of protective clothing they could wear.

1 399. As of this date, Plaintiff has still not returned to work, because she is still suffering from
2 severe vertigo, dizziness, and disequilibrium and is therefore unable to drive, and because the building
3 where her office is located has still not been fumigated.

4 400. Plaintiff has repeatedly requested that the building where she works (City Hall East) be
5 fumigated before she returns to work. Even though Defendant CITY began fumigating other buildings in
6 October 2018, EMPLOYER Defendants have failed and refused to fumigate City Hall East. (The Los
7 Angeles Police Department buildings have been fumigated on about October 10, October 26, and December
8 14, 2018.) Plaintiff has pointed out that, because of her auto-immune disorder, she is at greater risk than
9 others for re-contracting typhus, but EMPLOYER Defendants have still failed and refused to fumigate City
10 Hall East or to allow Plaintiff to do her job in the Police Litigation Unit somewhere other than downtown.

11 401. Plaintiff's most recent medical leave expired March 7, 2019. She has been unable to see Dr.
12 Sokolov again to either have her leave extended or be cleared to return to work, because her workers'
13 compensation claim had been closed, either by Defendant CITY or by its workers' compensation
14 administrator, Elite Claims.

15 402. Plaintiff is a citizen of the United States of America, and an employee of the City of Los
16 Angeles. Every time Plaintiff complained about EMPLOYER Defendants' actions regarding the typhus
17 outbreak – whether on television, on the radio, in newspaper, or in person, retaliatory action which was
18 sufficient to deter a person of ordinary firmness from exercising her constitution rights was the result.

19 403. There is clearly a causal link between the constitutionally protected conduct in which
20 Plaintiff engaged, and the retaliatory action which was taken against her almost immediately thereafter.

21 404. As a direct and legal result of Defendants' unlawful actions, Plaintiff has suffered economic
22 damages pursuant to Civil Code sections 3281, 3283, and 3333. Plaintiff has and will continue to suffer
23 a loss of earnings and benefits, and other employment benefits and job opportunities. Plaintiff has suffered
24 economic damages because of being required to exhaust her paid vacation and paid sick leave, because of
25 having to take unpaid leave, and because of having to pay her own medical expenses when Defendants
26 (once again) terminated her health insurance, all as a result of Defendants' unlawful actions. Plaintiff has
27 also suffered irreparable harm to her career by being forced into this situation where she was required to
28 speak out regarding the unsafe working conditions at the offices occupied by Defendant CITY

1 ATTORNEY'S OFFICE.

2 405. As a direct and legal result of Defendants' unlawful actions, Plaintiff has also suffered and
3 continues to suffer an exacerbation of her typhus symptoms, conditions and disabilities, pain and suffering,
4 mental anguish, depression, anxiety, loss of self-esteem, anhedonia, humiliation, damage to her reputation,
5 and general emotional distress.

6 406. As a further direct and legal result of the acts and omissions of Defendants, Plaintiff has been
7 forced and/or will be forced to incur expenses for medical care including, but not limited to, treatment by
8 physicians and other health professionals, medical examinations, medical procedures, laboratory costs,
9 prescription medications, and other incidental medical expenses. Plaintiff is therefore entitled to
10 compensatory damages in an amount to be proven at trial.

11 407. The aforementioned acts by DOE Defendants were willful, wanton, malicious, intentional,
12 oppressive and/or despicable and were done in willful and conscious disregard of the rights, welfare, and
13 safety of Plaintiff, thereby justifying the awarding of punitive and exemplary damages against Defendants
14 DOES 1 through 10 (who are **not** public entities) in an amount to be determined at the time of trial.

15 408. As a direct result of Defendants' discriminatory acts, Plaintiff has incurred and continues
16 to incur costs in an amount to be proven, to which she is also entitled, as provided by law.

17
18 **TWELFTH CAUSE OF ACTION**

19 **WHISTLEBLOWING –**

20 **COMMON LAW RETALIATION IN VIOLATION OF PUBLIC POLICY**

21 **[Against EMPLOYER Defendants and DOE Defendants]**

22 409. Plaintiff realleges and incorporates herein by reference Paragraphs 1 through 164 above, as
23 though fully set forth in this cause of action.

24 410. Under California law, no employee, whether at-will or under contract, can be retaliated
25 against for a reason that is in violation of a fundamental public policy. California courts have interpreted
26 a fundamental public policy to be any particular constitutional or statutory provision or regulation that is
27 concerned with a manner affecting society at large rather than a purely personal or proprietary interest of
28 the employee or employer.

1 411. During Plaintiff's employment with EMPLOYER Defendants, it was a fundamental,
2 substantial, and well-established public policy that "[e]very employer shall furnish . . . a place of
3 employment that is safe and healthful for the employees therein." [Lab. Code § 6400.] Additionally, "No
4 employer shall occupy or maintain any place of employment that is not safe and healthful." [Lab. Code §
5 6404.] Also, "Every person possessing a place that is infested with rodents, as soon as their presence comes
6 to his or her knowledge, shall at once proceed and continue in good faith to endeavor to exterminate and
7 destroy the rodents, by poisoning, trapping, and other appropriate means, and to abate the conditions listed
8 in Section 17920.3 that are causing the infestation." [Health & Saf. Code § 116125.]

9 412. At the time EMPLOYER Defendants retaliated against Plaintiff, it was also the public policy
10 of the State of California, as set forth in Labor Code section 1102.5(b), that an employer may not retaliate
11 against an employee for disclosing information, or because the employer believes that the employee
12 disclosed or may disclose information, to a government or law enforcement agency, to a person with
13 authority over the employee or another employee who has the authority to investigate, discover, or correct
14 the violation or noncompliance, or for providing information to, or testifying before, any public body
15 conducting an investigation, hearing, or inquiry, if the employee has reasonable cause to believe that the
16 information discloses a violation of state or federal statute, or a violation of or noncompliance with a local,
17 state, or federal rule or regulation, regardless of whether disclosing the information is part of the employee's
18 job duties.

19 413. Plaintiff was an employee of EMPLOYER Defendants. Plaintiff had a reasonably-based
20 suspicion that EMPLOYER Defendants were requiring employees to work in a facility which was invested
21 by rats which had fleas which carried the typhus virus since Plaintiff herself had contracted the typhus virus
22 while working at City Hall East. Plaintiff therefore repeatedly complained about the conditions which she
23 believed were unsafe and illegal.

24 414. On December 20, 2018, when Plaintiff learned that Defendant CITY was not planning to
25 fumigate the City Hall East Building, she made a complaint to the California Division of Occupational
26 Safety and Health (DOSH), better known as Cal/OSHA, regarding the typhus outbreak, and the fact that
27 she contracted typhus. Also on December 20, 2018, Cal/OSHA sent a letter to Defendant CITY
28 ATTORNEY'S OFFICE, notifying it that a complaint had been filed and giving it five days to respond.

1 Plaintiff has been informed and therefore believes that Cal/OSHA has begun an investigation into her
2 complaint.

3 415. In early January 2019, Plaintiff contacted the Los Angeles County Vector Control District
4 and advised them that she had contracted typhus while working at City Hall East.

5 416. On January 10, 2019 and again on January 22, 2019, Plaintiff (through her attorney)
6 complained to Vivienne Swanigan about the flea and rat infestation at City Hall East which had caused
7 Plaintiff to contract typhus, and demanded that City Hall East be fumigated or Cal/OSHA indicated the
8 building was safe for employees to work there.

9 417. On January 29, 2019, Plaintiff was interviewed by Joel Grover of NBC 4 local news
10 regarding her typhus. Plaintiff spoke out about the rat and flea infestation at City Hall and City Hall East,
11 and about the typhus contagion in downtown Los Angeles. Plaintiff described the agonizing pain she
12 endured because of having contracted typhus and emphasized the importance of Defendant CITY and
13 Defendant CITY ATTORNEY'S OFFICE taking immediate action to get rid of the typhus-carrying fleas.
14 On January 30, 2019, EMPLOYER Defendants were contacted by Joel Grover for comment.

15 418. The next day, on January 31, 2019, David Trujillo sent an email to Plaintiff in which he
16 stated "driving or operating heavy equipment" were not "essential functions" of Plaintiff's Deputy City
17 Attorney position, **and that Plaintiff was expected to report for work on Monday, February 4, 2019.**
18 In fact, Defendant BRENTE had stated in his June 12, 2017 memo titled "Essential Functions of Deputy
19 City Attorneys in Police Litigation Unit":

20 It should be noted that taking and defending depositions often involves travel
21 both in southern California and across the United States . . . the duties
22 include defending the case at trial, which involves travel to and from court
23 (by walking or car) . . . While most of the cases are venued in downtown
Los Angeles, some federal cases are assigned to the Santa Ana and Riverside
courthouses, and some superior court cases are assigned to the San Fernando
Valley or other branch courthouses.

24 Plaintiff alleges that this January 31, 2019 order that she report for work was in retaliation both for Plaintiff
25 filing and serving her DFEH Complaint and for her speaking to the media about contracting typhus at City
26 Hall East and the safety issues which existed at City Hall East. Plaintiff further alleges on information and
27 belief that Defendant FEUER directed that the January 31, 2019 order for Plaintiff to report to work be
28 made.

1 419. Also on January 31, 2019, Plaintiff appeared on NBC Channel 4 News at 11:00 p.m. where
2 she spoke about the typhus she had contracted while working at City Hall East, saying the things described
3 in paragraph xx above.

4 420. On February 1, 2019, Plaintiff sent an email to David Trujillo, in reply to his January 31,
5 2019 email ordering her to report to work. In her email, Plaintiff stated, among other things:

6 The conditions in City Hall East are a threat to the health of City employees
7 and to the public health. The City Attorney's office has been contacted by
8 CalOSHA about the threat to public health and has ignored their letter. From
9 my understanding, the City Attorney has not even notified other departments
10 that a City Attorney employee contracted typhus at City Hall East. No one
11 has notified the Mayor's office.

12 The fact the City Attorney has known of this health threat since November
13 2018; known that a City employee has been diagnosed with typhus since
14 December 2018; was contacted by Cal/OSHA December 20, 2018; has my
15 medical records proving I have Typhus since January 10, 2019; and has done
16 nothing about protecting the employees or the public entering the building
17 is obscene. The City Attorney has not even notified others in the building
18 that an employee was infected so they know of their exposure there or they
19 can take precautions. I would also add that the rat problem at City Hall East
20 is not new. This has been going on for years, and the City and the City
21 Attorney's Office allowed the infestation to get so out of control that people
22 are being exposed to a disease which is most often associated with
23 devastating epidemics from the Middle Ages.

24 I have been employed by the City Attorney's Office for over 22 years, and
25 am being treated like the trash which is lining the streets around City Hall
26 East. I seriously doubt a male who is a 22-year deputy city attorney and
27 contracted Typhus on the job would be treated as I have been and am being
28 treated. I should not be surprised, though, as this discrimination on the basis
of sex has been consistent behavior by the City Attorney's Office over the
years.

 I implore the City and the City Attorney's Office to protect the City
employees, clients, co-counsel and opposing counsel, witnesses, contractors,
and the public from this public health crisis you are allowing to continue.

22 421. On February 1, 2019. Plaintiff was featured in the *Daily Mail* in an article called "LA City
23 Hall Official Is the Latest Struck by Typhus in the City's Raging Epidemic," where she again spoke out
24 about the rat and flea investigation at City Hall and City Hall East, about the typhus contagion, and about
25 the pain typhus had caused to her. The article reads, "Liz believes the rats that nestle in the building's trash
26 were carrying fleas that transmitted the disease." Plaintiff was also quoted as saying, "There are enormous
27 rats." The article further reads: "She has yet to go back to work, and is calling on the city to fumigate the
28 building before she does 'because I thought I was going to die.'"

1 422. On February 4, 2019, Plaintiff was interviewed on John and Ken (KFI AM 640 Radio and
2 Podcast) and she spoke at length about the typhus outbreak, about the fact that she had contracted typhus
3 while working at City Hall East, and about the fact that Defendant CITY and Defendant CITY
4 ATTORNEY’S OFFICE had refused to fumigate.

5 423. On or about February 5, 2019, Plaintiff told Oscar Winslow, President of the Los Angeles
6 City Attorneys Association (LACAA), about her typhus diagnosis. Mr. Winslow was very surprised, since
7 no one at Defendant CITY ATTORNEY’S OFFICE had told its employees anything about protecting
8 themselves from typhus-carrying fleas. Something as simple as advising employees to wear boots would
9 have provided them a small amount of protection.

10 424. On February 6, 2019 (within days of Plaintiff speaking to various media about contracting
11 typhus while working at City Hall East) David Trujillo sent Plaintiff an email notifying her that she was
12 expected to report to her new supervisor Julie San Juan at her **new work location** at the Pacific Office,
13 Criminal Branch (11701 S. La Cienega Boulevard, Los Angeles 90045) on February 11 (even though
14 Plaintiff had previously submitted documents from U.S. HealthWorks stating that she was “temporarily
15 partially disabled” and was “not to drive or operate heavy machinery” through February 11, 2019). In this
16 position, Plaintiff would be handling misdemeanor arraignments at the Pacific Office, Criminal Branch.
17 A change in assignment from working in the Police Litigation Unit, where she was defending Defendant
18 CITY in million-dollar cases, to a position handling misdemeanor arraignments (which is an entry-level job)
19 was humiliating and demeaning. This was clearly a change to an inferior position, with much less status
20 than the position Plaintiff had held with the Police Litigation Unit, and was therefore an involuntary and
21 wrongful demotion. Additionally, this demotion did nothing to address the accommodation Plaintiff needed
22 relating to her inability to drive due to vertigo caused by the typhus. Plaintiff alleges that this February 6,
23 2019 demotion was in direct retaliation for her continued complaining, both internally and to the media,
24 about the typhus epidemic and, specifically, the flea-infestation at City Hall East. Plaintiff further alleges
25 on information and belief that Defendant FEUER directed Plaintiff’s demotion from working in the Police
26 Litigation Unit to handling misdemeanor arraignments at the LAX courthouse for the Pacific Office,
27 Criminal Branch.

28 425. On February 7, 2019, Plaintiff appeared on the Channel 5 11:00 a.m. News, on the Channel

1 11 News at 1:00 p.m., and on John and Ken (on KFI AM 640 Radio and Podcast) at 3:00 p.m.

2 426. Also on February 7, 2019, Plaintiff was featured in an article in the *Los Angeles Times* titled
3 “L.A. City Hall, overrun with rats, might remove all carpets amid typhus fears.” This article discusses the
4 rat infestation at City Hall and a proposition to remove all of the carpet from City Hall and the adjoining
5 buildings. Plaintiff was featured in the article and was quoted as saying:

6 I am actually terrified of entering the building again until they do something”
7 and “that carpet is years old – and, more than likely, it has fleas and flea eggs
8 in it” and “I would really like to see the building fumigated for both rats and
fleas . . . I hope they don’t wait.

9 427. Also on February 7, 2019, Plaintiff was featured on KTLA (Channel 5), again speaking out
10 about the typhus epidemic and about the fact that she contracted typhus while working at City Hall East.
11 That same day, Plaintiff was featured on the front page of the *Daily Breeze*, in an article titled “Deputy LA
12 City Attorney in San Pedro goes public with typhus bout prompting City Hall to take notice.”

13 428. The very next day (February 8, 2019), knowing Plaintiff had previously submitted
14 documents from U.S. HealthWorks stating that she was “temporarily partially disabled” and was “**not to**
15 **drive** or operate heavy machinery” **through February 11, 2019**, David Trujillo sent Plaintiff an email with
16 instructions regarding where she was to **park on February 11**, when she reported for her new (demoted)
17 assignment handling misdemeanor arraignments at the Pacific Office, Criminal Branch.

18 429. On Saturday, February 9, 2019, Plaintiff was mentioned in an article in the *Los Angeles*
19 *Times* titled “L.A. officials target vermin at City Hall.” On Sunday, February 10, 2019, Plaintiff was
20 featured in an article on the front page of the “California” section titled, “She’s ‘the canary in the coal
21 mine.’” Plaintiff’s photograph was included, with a caption which read: “L.A. DEPUTY CITY ATTY.
22 Elizabeth Greenwood said flea bites at City Hall gave her typhus. Her bosses didn’t believe she had the
23 disease, she said.”

24 430. On February 11, 2019, Plaintiff once again went to U.S. HealthWorks, where she was once
25 again designated as “temporarily partially disabled.” Since Plaintiff was going to see the City-designated
26 infectious disease specialist on February 14, the doctor at U.S. HealthWorks extended her disability period
27 only through February 14, 2019. Plaintiff emailed the Work Status Report and Injury Status Report to HR
28 Analyst David Trujillo on February 11, 2019.

1 431. Also on February 11, 2019, Plaintiff sent David Trujillo a very long email, stating her
2 objections to the demotion to the Pacific Office, Criminal Branch (handling misdemeanor arraignments at
3 the LAX courthouse). Among other things, Plaintiff wrote:

4 In early December 2018, I reported the typhus danger to Los Angeles County
5 Health Department, Acute Communicable Disease Department. On
6 December 20, 2018, I reported the typhus danger at City Hall East, and the
7 City Attorney's refusal to take any action to protect its employees, to
8 Cal/OSHA. In early January 2019, I reported the same health dangers the
9 City Attorney was knowingly allowing to persist to Los Angeles County
10 Vector Control District.

11 I also filed a complaint with the Department of Fair Employment and
12 Housing, which was served on the City Attorney's Office on January 17.
13 Later in January, after the City Attorney's office continued to stonewall me
14 over the public health issue it was allowing to persist, I started talking to
15 NBC. I talked to Joel Grover about the failure of the City Attorney's Office
16 to protect me and then for the past several months its employees (and the
17 members of the public who visit City Hall and City Hall East) from typhus.
18 We discussed at length the City Attorney's Office had known about this for
19 months and had not even sent a department wide email warning employees
20 about the danger they faced.

21 The day after the City Attorney's administration received a call from Joel
22 Grover regarding safety precautions taken after my diagnosis, on January 31,
23 you sent me an email once again ordering me back to work "or else," despite
24 the orders from U.S. HealthWorks – the City's own industrial medicine
25 provider. You falsely stated "driving or operating heavy equipment" is not
26 an essential function of my job. I replied to your email by my email dated
27 February 4. In case you do not recall the contents of my email, I stated:

28 The City of Los Angeles created an environment in which I was injured,
badly. The standard you should be looking at is one of reasonable
accommodation, not "essential function." However, since you brought it up,
driving a vehicle is an essential function of my job. I am required to attend
depositions as well as depose plaintiffs, defendants, and witnesses offsite.
Further, I am required to attend court hearings all over Los
Angeles, Riverside, and Orange Counties. . . .

How the City Attorney could knowingly expose its employees to this
horrible bacteria is shocking to me. The fact it knowingly exposes the public,
who enters the building every day to conduct business, is criminal. The fact
that you, Vivienne Swanigan, and the City Attorney's office are retaliating
against me for standing up for my legal rights and for speaking out and
telling people the danger they face walking into that building is
unconscionable. . . .

My loud and repeated whistling to the Department of Fair Employment and
Housing, the Los Angeles Superior Court, Cal/OSHA, the Los Angeles
Vector Control District and the media has resulted not in the City Attorney's
Office doing the right (and smart) thing, but instead in you (and Vivienne
Swanigan) sending the February 6, 2019 email in which you advise me that
I am being transferred to the airport courthouse, where I will be a

1 misdemeanor line deputy doing misdemeanor arraignments. This is so
2 obviously a demotion it constitutes unlawful retaliation under common law
3 and several sections of the Labor Code. (My attorney is currently amending
4 the lawsuit to include the latest acts against me.)

5 The City of Los Angeles created an environment in which I was injured,
6 badly. The standard you should be looking at is one of reasonable
7 accommodation, not “essential function.” However, since you brought it up,
8 driving a vehicle is an essential function of my job. I am required to attend
9 depositions as well as depose plaintiffs, defendants, and witnesses offsite.
10 Further, I am required to attend court hearings all over Los
11 Angeles, Riverside, and Orange Counties. . . .

12 How the City Attorney could knowingly expose its employees to this
13 horrible bacteria is shocking to me. The fact it knowingly exposes the public,
14 who enters the building every day to conduct business, is criminal. The fact
15 that you, Vivienne Swanigan, and the City Attorney’s office are retaliating
16 against me for standing up for my legal rights and for speaking out and
17 telling people the danger they face walking into that building is
18 unconscionable. . . .

19 My loud and repeated whistling to the Department of Fair Employment and
20 Housing, the Los Angeles Superior Court, Cal/OSHA, the Los Angeles
21 Vector Control District and the media has resulted not in the City Attorney’s
22 Office doing the right (and smart) thing, but instead in you (and Vivienne
23 Swanigan) sending the February 6, 2019 email in which you advise me that
24 I am being transferred to the airport courthouse, where I will be a
25 misdemeanor line deputy doing misdemeanor arraignments. This is so
26 obviously a demotion it constitutes unlawful retaliation under common law
27 and several sections of the Labor Code. (My attorney is currently amending
28 the lawsuit to include the latest acts against me.)

432. On February 13, 2019, Plaintiff filed a complaint with the U.S. Department of Occupational
Safety and Health Administration (Federal OSHA) alleging retaliation for filing a complaint with
Cal/OSHA regarding safety and health hazards at her workplace.

433. On February 14, 2019, Plaintiff saw infectious disease specialist Richard T. Sokolov, M.D.
(another City-designated doctor). Dr. Sokolov directed that Plaintiff be off work for the next three weeks.
Dr. Sokolov told Plaintiff that since she was still suffering from vertigo, her brain had not recovered from
the typhus, so she should not be working. Dr. Sokolov also stated it was his professional opinion that
Plaintiff had contracted the typhus while working at City Hall East.

434. Also on February 14, 2019, Plaintiff sent another very long email to David Trujillo. Among
other things, Plaintiff wrote:

I object to the term “Personal Medical Leave” since this is leave which is
necessary because of an on-the-job injury, and for which I have filed a
workers’ comp claim. I am also confused regarding what this means. It is

1 not clear to me whether the medical leave is intended to be from now until
2 the City Attorney's Office comes up with an appropriate reasonable
3 accommodation, or whether it is only for Monday, Wednesday, and
4 Thursday of this week. That question is probably not that important now,
5 though, because today I saw the infectious disease doctor Richard Sokolov,
6 M.D. (who U.S. HealthWorks referred me to and will be my industrial injury
7 treating physician), and he put me off work for three weeks, effective today.
8 A copy of Dr. Sokolov's prescription placing me off work is attached to this
9 email.

10 I cannot tell you how disappointing it is to see the level of indifference the
11 City Attorney's office has shown to me, to the safety of the employees who
12 work in City Hall East, and to the health of the members of the public forced
13 to come to the building to conduct their business with the City. This office
14 has been on notice of my illness since November 27, 2018. Their failure to
15 act, their failure to even notify people of the danger they face walking into
16 the building is grossly negligent and a complete abdication of the public
17 trust.

18 435. On both Saturday, February 16, and Sunday, February 17, Plaintiff was again mentioned in
19 articles in the *Los Angeles Times* regarding the typhus epidemic and the rat and flea infestation at City Hall
20 and City Hall East.

21 436. On February 22, 2019, the Acting Human Resources Director, Stephanie B. Ybarra, sent
22 Plaintiff a letter advising her that her "request for a personal medical leave of absence extension" had been
23 "approved as a reasonable accommodation for the continuous period of February 11, 2019 through March
24 7, 2019." In a total denial of their part in causing Plaintiff's injuries, EMPLOYER Defendants continue
25 to use the terms "personal medical leave of absence" and "reasonable accommodation" even though
26 Plaintiff was unable to work because of an on-the-job injury, Plaintiff had filed a workers' compensation
27 claim, and the City-designated infectious disease specialist had stated Plaintiff was unable to work. The
28 letter was also emailed to Julie San Juan, Plaintiff's new supervisor at her new assignment at the Pacific
Office, Criminal Branch.

437. Later on February 22, 2019, Plaintiff sent an email to David Trujillo in which she wrote:

I received your letter granting personal medical leave until March 7, 2019,
due to my recovering from the typhus I contracted at work. My next doctor's
appointment is March 14, 2019, so I am unsure how you wish for me to go
to work, or to where you expect me to report prior to my next doctor's
appointment. I will not have a medical release before that appointment.

I have still not received a phone call from anyone at the City Attorney's
office inquiring about my health. I mention that because it is shockingly rude
and insensitive. Nor have I received any communication whatsoever that
resembles a conversation about what would be a reasonable accommodation

1 after management let the health and cleanliness conditions in City Hall East
2 reach the point that I almost died. I have only received orders to show up at
different work sites for different jobs.

3 Our last communication involved my unilateral and involuntarily transfer.
4 I called my association for assistance because involuntary transfers involve
the MOU, and in my case also violate Whistleblower statutes. Someone told
5 Oscar Winslow, the Association President, that I requested the transfer. I did
not. That was a lie. I asked you with which supervisor I should begin the
6 grievance process. You replied characterizing my response as a refusal of
your reasonable accommodation but never answered my question about
7 which supervisor I should contact.

8 Based on your response I incorrectly assumed that transfer was not going to
happen. Julie San Juan was included in today's email, but not Cory Brente.
9 Should I assume the office is continuing with the illegal unilateral
involuntary transfer?

10 I look forward to your rapid response.

11 438. David Trujillo responded (on February 22) that the transfer to the Pacific Office, Criminal
12 Branch was "no longer happening," although he gave no indication regarding whether anything *would* be
13 happening. EMPLOYER Defendants have still not accommodated Plaintiff's disabilities, however.
14 EMPLOYER Defendants have not fumigated City Hall or City Hall East. They have not even removed the
15 carpeting. EMPLOYER Defendants have also not increased the custodial crews, and have not provided
16 employees and visitors to the building with any type of protective clothing they could wear.

17 439. As of this date, Plaintiff has still not returned to work, because she is still suffering from
18 severe vertigo, dizziness, and disequilibrium and is therefore unable to drive, and because the building
19 where her office is located has still not been fumigated.

20 440. Plaintiff has repeatedly requested that the building where she works (City Hall East) be
21 fumigated before she returns to work. Even though Defendant CITY began fumigating other buildings in
22 October 2018, EMPLOYER Defendants have failed and refused to fumigate City Hall East. (The Los
23 Angeles Police Department buildings have been fumigated on about October 10, October 26, and December
24 14, 2018.) Plaintiff has pointed out that, because of her auto-immune disorder, she is at greater risk than
25 others for re-contracting typhus, but EMPLOYER Defendants have still failed and refused to fumigate City
26 Hall East or to allow Plaintiff to do her job in the Police Litigation Unit somewhere other than downtown.

27 441. Plaintiff's most recent medical leave expired March 7, 2019. She has been unable to see Dr.
28 Sokolov again to either have her leave extended or be cleared to return to work, because her workers'

1 compensation claim had been closed, either by Defendant CITY or by its workers' compensation
2 administrator, Elite Claims.

3 442. There is clearly a causal link between Plaintiff's complaints of unsafe conditions and the
4 adverse employment actions which were taken against her by Defendant CITY and Defendant CITY
5 ATTORNEY'S OFFICE almost immediately thereafter. Among other things, Defendant CITY and
6 Defendant CITY ATTORNEY'S OFFICE (on January 31, 2019) ordered Plaintiff to return to work right
7 after Plaintiff was interviewed by Joel Grover of NBC 4 local news, and then (on February 6, 2019), within
8 days of Plaintiff speaking to various media about contracting typhus while working at City Hall East,
9 demoting Plaintiff from being a Deputy City Attorney who was defending Defendant CITY in million-dollar
10 cases against the Los Angeles Police Department and its employees (mostly brought in federal court), to
11 an attorney assigned to handle misdemeanor arraignments at the LAX courthouse – an entry-level
12 assignment which she had performed over 20 years earlier.

13 443. As a direct and legal result of Defendants' unlawful actions, Plaintiff has suffered economic
14 damages pursuant to Civil Code sections 3281, 3283, and 3333. Plaintiff has and will continue to suffer
15 a loss of earnings and benefits, and other employment benefits and job opportunities. Plaintiff has suffered
16 economic damages because of being required to exhaust her paid vacation and paid sick leave, because of
17 having to take unpaid leave, and because of having to pay her own medical expenses when Defendants
18 (once again) terminated her health insurance, all as a result of Defendants' unlawful actions. Plaintiff has
19 also suffered irreparable harm to her career by being forced into this situation where she was required to
20 speak out regarding the unsafe working conditions at the offices occupied by Defendant CITY
21 ATTORNEY'S OFFICE.

22 444. As a direct and legal result of Defendants' unlawful actions, Plaintiff has also suffered and
23 continues to suffer an exacerbation of her typhus symptoms, conditions and disabilities, pain and suffering,
24 mental anguish, depression, anxiety, loss of self-esteem, anhedonia, humiliation, damage to her reputation,
25 and general emotional distress.

26 445. As a further direct and legal result of the acts and omissions of Defendants, Plaintiff has been
27 forced and/or will be forced to incur expenses for medical care including, but not limited to, treatment by
28 physicians and other health professionals, medical examinations, medical procedures, laboratory costs,

1 prescription medications, and other incidental medical expenses. Plaintiff is therefore entitled to
2 compensatory damages in an amount to be proven at trial.

3 446. The aforementioned acts by DOE Defendants were willful, wanton, malicious, intentional,
4 oppressive and/or despicable and were done in willful and conscious disregard of the rights, welfare, and
5 safety of Plaintiff, thereby justifying the awarding of punitive and exemplary damages against Defendants
6 DOES 1 through 10 (who are **not** public entities) in an amount to be determined at the time of trial.

7 447. As a direct result of Defendants' retaliatory acts, Plaintiff has incurred and continues to incur
8 costs in an amount to be proven, to which she is also entitled, as provided by law.

9 10 **THIRTEENTH CAUSE OF ACTION**

11 **WHISTLEBLOWING –**

12 **RETALIATION IN VIOLATION OF LABOR CODE SECTION 1102.5**

13 **[Against EMPLOYER Defendants and DOE Defendants]**

14 448. Plaintiff realleges and incorporates herein by reference Paragraphs 1 through 164 above, as
15 though fully set forth in this cause of action.

16 449. This cause of action is brought pursuant to Labor Code section 1102.5. At all times relevant
17 herein, EMPLOYER Defendants have been employers pursuant to Industrial Welfare Commission Wage
18 Order 4-2001, § 2(H) and Labor Code section 1102.5. Plaintiff is and was an employee of EMPLOYER
19 Defendants.

20 450. Labor Code section 1102.5 prohibits employers from retaliating against an employee for
21 disclosing information, or because the employer believes that the employee disclosed or may disclose
22 information, to a government or law enforcement agency, to a person with authority over the employee or
23 another employee who has the authority to investigate, discover, or correct the violation or noncompliance,
24 or for providing information to, or testifying before, any public body conducting an investigation, hearing,
25 or inquiry, if the employee has reasonable cause to believe that the information discloses a violation of state
26 or federal statute, or a violation of or noncompliance with a local, state, or federal rule or regulation,
27 regardless of whether disclosing the information is part of the employee's job duties.

28 451. On Thursday, November 1, 2018, Plaintiff became extremely ill, with a very high fever, and

1 was diagnosed as probable Viral Meningitis. Plaintiff's physician (Terry Ishihara, M.D.) wanted to admit
2 Plaintiff to the hospital, but she Declined to go because of being without health insurance. Plaintiff could
3 not even have blood tests performed because of the lack of health insurance. Dr. Ishihara advised Plaintiff
4 that she would need to stay in bed for at least a week, and probably longer. On November 1, 2018, Plaintiff
5 advised both Defendant BRENT and HR Analyst David Trujillo that she was sick, that she probably had
6 Viral Meningitis, and that her doctor had advised at least a week of bed rest.

7 452. On Monday, November 5, 2018, persons from the Police Litigation Unit started emailing
8 Plaintiff assignments to do at home. Not only was Plaintiff very ill, but she did not have any of the files
9 she would need in order to do the work she was being assigned anyway. Plaintiff notified both the Police
10 Litigation Unit and David Trujillo of these facts.

11 453. On November 8, 2018, Plaintiff learned that her health insurance had been reactivated.²⁰
12 Plaintiff was still very ill at this time. Her fever was not as high as previously, but she was still suffering
13 from fever, headaches, chills, and severe vertigo. On November 20, Plaintiff's physician said it could take
14 up to two weeks for her to recover from what, at that point, had been diagnosed as Viral Meningitis.
15 Plaintiff's physician provided her with a note stating she could not return to work until December 3, 2018.

16 454. While Plaintiff was at the doctor on November 20, she had blood drawn for the purpose of
17 testing for typhus. On November 27, 2018, Plaintiff learned she had typhus (specifically, typhus fever
18 Group IgG, IgM). Typhus is a very serious disease, which can be fatal if left untreated. Typhus can cause
19 Viral Meningitis. Although typhus is highly treatable with antibiotics, Plaintiff could not go to the hospital
20 or even have blood tests until almost three weeks after her symptoms started, because her health insurance
21 had not yet been re-activated (even though she was eligible for re-activation starting October 27, 2018).

22 455. Plaintiff most likely contracted typhus while working for EMPLOYER Defendants. Typhus
23 is transmitted by fleas and is believed to have started in the homeless encampments in downtown Los
24 Angeles. There has been a typhus epidemic in downtown Los Angeles since about September 2018. The
25 county designated a 279-acre area bounded by Third, Seventh, Alameda, and Spring streets as the "Typhus
26

27 ²⁰Plaintiff was eligible for health insurance starting October 27, 2018, but despite Plaintiff urging
28 EMPLOYER Defendants to hurry and get her insurance re-activated, Plaintiff's health insurance was not
actually re-activated until November 8, 2018.

1 Zone.” Plaintiff’s office is only two blocks outside the Typhus Zone.

2 456. On November 29, 2018, Plaintiff sent an email to Defendant BRENTE, copied to David
3 Trujillo, in which she wrote:

4 Given the fact there is a typhus outbreak in Downtown LA I would like to
5 file a workers’ compensation claim. Would you please send me the
6 paperwork.

6 Thank you very much.

7 David Trujillo replied that he would have “Nancy send over the paperwork.” Plaintiff submitted a workers’
8 compensation Employee’s Report of Injury/Illness to the Human Resources Department within Defendant
9 CITY ATTORNEY’S OFFICE, relating to her typhus diagnosis, on December 1, 2018. In that document,
10 Plaintiff wrote:

11 There is a typhus outbreak in downtown LA. Sometime the week of
12 10/16/18 while at my office I was bitten by one or more fleas. On November
13 1, 2018, I became violently ill. On 11/27/18, my primary care physician
14 phoned me and informed me I tested positive for typhus.

14 Under “What can the City of Los Angeles do to help prevent similar accidents/incidents?” Plaintiff wrote
15 “Fumigate City Hall East for fleas-immediately. This is a horrible condition.”

16 457. Plaintiff did not return to work on December 3, 2018, however, because she was on a
17 planned family vacation through December 10, 2018 plus, as it turned out, she was still ill from the typhus
18 the entire time, so she spent most of the vacation in bed, with intermittent fevers and with severe headaches.
19 Plaintiff planned to return to work on December 11, 2018, but was unable to return for two reasons: 1) She
20 was still suffering from severe vertigo, dizziness, and disequilibrium which are symptoms of typhus; and
21 2) She feared contracting typhus again, since her office is within two blocks of the Typhus Zone. (Typhus
22 can be contracted repeatedly, and since Plaintiff has an auto-immune disorder, she is at increased risk for
23 contracting typhus. In California, an employee is not required to work under hazardous working conditions
24 which present a serious risk of harm.) Although EMPLOYER Defendants had indicated they had sprayed
25 pesticide in Plaintiff’s personal office, the rest of the building had not been fumigated, so Plaintiff would
26 still not be protected from typhus-carrying fleas.

27 458. Plaintiff most likely contracted typhus while working for EMPLOYER Defendants. Typhus
28 is transmitted by fleas and is believed to have started in the homeless encampments in downtown Los

1 Angeles. There has been a typhus epidemic in downtown Los Angeles since about September 2018. The
2 county designated a 279-acre area bounded by Third, Seventh, Alameda, and Spring streets as the “Typhus
3 Zone.” Plaintiff’s office is only two blocks outside the Typhus Zone.

4 459. On November 29, 2018, Plaintiff sent an email to Defendant BRENTE, copied to David
5 Trujillo, in which she wrote:

6 Given the fact there is a typhus outbreak in Downtown LA I would like to
7 file a workers’ compensation claim. Would you please send me the
8 paperwork.

9 Thank you very much.

10 David Trujillo replied that he would have “Nancy send over the paperwork.” Plaintiff submitted a workers’
11 compensation Employee’s Report of Injury/Illness to the Human Resources Department within Defendant
12 CITY ATTORNEY’S OFFICE, relating to her typhus diagnosis, on December 1, 2018. In that document,
13 Plaintiff wrote:

14 There is a typhus outbreak in downtown LA. Sometime the week of
15 10/16/18 while at my office I was bitten by one or more fleas. On November
16 1, 2018, I became violently ill. On 11/27/18, my primary care physician
17 phoned me and informed me I tested positive for typhus.

18 Under “What can the City of Los Angeles do to help prevent similar accidents/incidents?” Plaintiff wrote
19 “Fumigate City Hall East for fleas-immediately. This is a horrible condition.”

20 460. Plaintiff did not return to work on December 3, 2018, however, because she was on a
21 planned family vacation through December 10, 2018 plus, as it turned out, she was still ill from the typhus
22 the entire time, so she spent most of the vacation in bed, with intermittent fevers and with severe headaches.
23 Plaintiff planned to return to work on December 11, 2018, but was unable to return for two reasons: 1) She
24 was still suffering from severe vertigo, dizziness, and disequilibrium which are symptoms of typhus; and
25 2) She feared contracting typhus again, since her office is within two blocks of the Typhus Zone. (Typhus
26 can be contracted repeatedly, and since Plaintiff has an auto-immune disorder, she is at increased risk for
27 contracting typhus. In California, an employee is not required to work under hazardous working conditions
28 which present a serious risk of harm.) Although EMPLOYER Defendants had indicated they had sprayed
pesticide in Plaintiff’s personal office, the rest of the building had not been fumigated, so Plaintiff would
still not be protected from typhus-carrying fleas.

1 461. On December 9, 2018, Plaintiff learned that her health insurance had been changed from
2 Anthem, to Kaiser Permanente, without anyone even giving her any notice of this change. (Plaintiff found
3 out when she attempted to get a prescription refilled at the pharmacy.)

4 462. On December 20, 2018, when Plaintiff learned that Defendant CITY was not planning to
5 fumigate the City Hall East Building, she made a complaint to the California Division of Occupational
6 Safety and Health (DOSH), better known as Cal/OSHA, regarding the typhus outbreak, and the fact that
7 she contracted typhus. Also on December 20, 2018, Cal/OSHA sent a letter to Defendant CITY
8 ATTORNEY'S OFFICE, notifying it that a complaint had been filed and giving it five days to respond.
9 Plaintiff has been informed and therefore believes that Cal/OSHA has begun an investigation into her
10 complaint.

11 463. In early January 2019, Plaintiff contacted the Los Angeles County Vector Control District
12 and advised them that she had contracted typhus while working at City Hall East.

13 464. On January 10, 2019 and again on January 22, 2019, Plaintiff (through her attorney)
14 complained to Vivienne Swanigan about the flea and rat infestation at City Hall East which had caused
15 Plaintiff to contract typhus, and demanded that City Hall East be fumigated or Cal/OSHA indicated the
16 building was safe for employees to work there.

17 465. On January 31, 2019, David Trujillo sent an email to Plaintiff in which he stated "driving
18 or operating heavy equipment" were not "essential functions" of Plaintiff's Deputy City Attorney position,
19 **and that Plaintiff was expected to report for work on Monday, February 4, 2019.** In fact, Defendant
20 BRENTE had stated in his June 12, 2017 memo titled "Essential Functions of Deputy City Attorneys in
21 Police Litigation Unit":

22 It should be noted that taking and defending depositions often involves travel
23 both in southern California and across the United States . . . the duties
24 include defending the case at trial, which involves travel to and from court
25 (by walking or car) . . . While most of the cases are venued in downtown
Los Angeles, some federal cases are assigned to the Santa Ana and Riverside
courthouses, and some superior court cases are assigned to the San Fernando
Valley or other branch courthouses.

26 Plaintiff alleges that this January 31, 2019 order that she report for work was in retaliation both for Plaintiff
27 filing and serving her DFEH Complaint and for reporting to Cal/OSHA, Los Angeles County Vector
28 Control District, and Vivienne Swanigan about contracting typhus at City Hall East and about the safety

1 issues which existed at City Hall East. Plaintiff further alleges on information and belief that Defendant
2 FEUER directed that the January 31, 2019 order for Plaintiff to report to work be made.

3 466. On February 1, 2019, Plaintiff sent an email to David Trujillo, in reply to his January 31,
4 2019 email ordering her to report to work. In her email, Plaintiff stated, among other things:

5 The conditions in City Hall East are a threat to the health of City employees
6 and to the public health. The City Attorney's office has been contacted by
7 CalOSHA about the threat to public health and has ignored their letter. From
8 my understanding, the City Attorney has not even notified other departments
9 that a City Attorney employee contracted typhus at City Hall East. No one
10 has notified the Mayor's office.

11 The fact the City Attorney has known of this health threat since November
12 2018; known that a City employee has been diagnosed with typhus since
13 December 2018; was contacted by Cal/OSHA December 20, 2018; has my
14 medical records proving I have Typhus since January 10, 2019; and has done
15 nothing about protecting the employees or the public entering the building
16 is obscene. The City Attorney has not even notified others in the building
17 that an employee was infected so they know of their exposure there or they
18 can take precautions. I would also add that the rat problem at City Hall East
19 is not new. This has been going on for years, and the City and the City
20 Attorney's Office allowed the infestation to get so out of control that people
21 are being exposed to a disease which is most often associated with
22 devastating epidemics from the Middle Ages.

23 I have been employed by the City Attorney's Office for over 22 years, and
24 am being treated like the trash which is lining the streets around City Hall
25 East. I seriously doubt a male who is a 22-year deputy city attorney and
26 contracted Typhus on the job would be treated as I have been and am being
27 treated. I should not be surprised, though, as this discrimination on the basis
28 of sex has been consistent behavior by the City Attorney's Office over the
years.

I implore the City and the City Attorney's Office to protect the City
employees, clients, co-counsel and opposing counsel, witnesses, contractors,
and the public from this public health crisis you are allowing to continue.

21 467. On or about February 5, 2019, Plaintiff told Oscar Winslow, President of the Los Angeles
22 City Attorneys Association (LACAA), about her typhus diagnosis. Mr. Winslow was very surprised, since
23 no one at Defendant CITY ATTORNEY'S OFFICE had told its employees anything about protecting
24 themselves from typhus-carrying fleas. Something as simple as advising employees to wear boots would
25 have provided them a small amount of protection.

26 468. On February 6, 2019 David Trujillo sent Plaintiff an email notifying her that she was
27 expected to report to her new supervisor Julie San Juan at her **new work location** at the Pacific Office,
28

1 Criminal Branch (11701 S. La Cienega Boulevard, Los Angeles 90045) on February 11 (even though
2 Plaintiff had previously submitted documents from U.S. HealthWorks stating that she was “temporarily
3 partially disabled” and was “not to drive or operate heavy machinery” through February 11, 2019). In this
4 position, Plaintiff would be handling misdemeanor arraignments at the Pacific Office, Criminal Branch.
5 A change in assignment from working in the Police Litigation Unit, where she was defending Defendant
6 CITY in million-dollar cases, to a position handling misdemeanor arraignments (which is an entry-level job)
7 was humiliating and demeaning. This was clearly a change to an inferior position, with much less status
8 than the position Plaintiff had held with the Police Litigation Unit, and was therefore an involuntary and
9 wrongful demotion. Additionally, this demotion did nothing to address the accommodation Plaintiff needed
10 relating to her inability to drive due to vertigo caused by the typhus. Plaintiff alleges that this February 6,
11 2019 demotion was in direct retaliation for her continued complaining, both internally and to the media,
12 about the typhus epidemic and, specifically, the flea-infestation at City Hall East. Plaintiff further alleges
13 on information and belief that Defendant FEUER directed Plaintiff’s demotion from working in the Police
14 Litigation Unit to handling misdemeanor arraignments at the LAX courthouse for the Pacific Office,
15 Criminal Branch.

16 469. On February 8, 2019, knowing Plaintiff had previously submitted documents from U.S.
17 HealthWorks stating that she was “temporarily partially disabled” and was “**not to drive** or operate heavy
18 machinery” **through February 11, 2019**, David Trujillo sent Plaintiff an email with instructions regarding
19 where she was to **park on February 11**, when she reported for her new (demoted) assignment handling
20 misdemeanor arraignments at the Pacific Office, Criminal Branch.

21 470. On February 11, 2019, Plaintiff once again went to U.S. HealthWorks, where she was once
22 again designated as “temporarily partially disabled.” Since Plaintiff was going to see the City-designated
23 infectious disease specialist on February 14, the doctor at U.S. HealthWorks extended her disability period
24 only through February 14, 2019. Plaintiff emailed the Work Status Report and Injury Status Report to HR
25 Analyst David Trujillo on February 11, 2019.

26 471. Also on February 11, 2019, Plaintiff sent David Trujillo a very long email, stating her
27 objections to the demotion to the Pacific Office, Criminal Branch (handling misdemeanor arraignments at
28 the LAX courthouse). Among other things, Plaintiff wrote:

1 In early December 2018, I reported the typhus danger to Los Angeles County
2 Health Department, Acute Communicable Disease Department. On
3 December 20, 2018, I reported the typhus danger at City Hall East, and the
4 City Attorney's refusal to take any action to protect its employees, to
Cal/OSHA. In early January 2019, I reported the same health dangers the
City Attorney was knowingly allowing to persist to Los Angeles County
Vector Control District.

5 I also filed a complaint with the Department of Fair Employment and
6 Housing, which was served on the City Attorney's Office on January 17.
7 Later in January, after the City Attorney's office continued to stonewall me
8 over the public health issue it was allowing to persist, I started talking to
9 NBC. I talked to Joel Grover about the failure of the City Attorney's Office
10 to protect me and then for the past several months its employees (and the
11 members of the public who visit City Hall and City Hall East) from typhus.
12 We discussed at length the City Attorney's Office had known about this for
13 months and had not even sent a department wide email warning employees
14 about the danger they faced.

15 The day after the City Attorney's administration received a call from Joel
16 Grover regarding safety precautions taken after my diagnosis, on January 31,
17 you sent me an email once again ordering me back to work "or else," despite
18 the orders from U.S. HealthWorks – the City's own industrial medicine
19 provider. You falsely stated "driving or operating heavy equipment" is not
20 an essential function of my job. I replied to your email by my email dated
21 February 4. In case you do not recall the contents of my email, I stated:

22 The City of Los Angeles created an environment in which I was injured,
23 badly. The standard you should be looking at is one of reasonable
24 accommodation, not "essential function." However, since you brought it up,
25 driving a vehicle is an essential function of my job. I am required to attend
26 depositions as well as depose plaintiffs, defendants, and witnesses offsite.
27 Further, I am required to attend court hearings all over Los
28 Angeles, Riverside, and Orange Counties. . . .

How the City Attorney could knowingly expose its employees to this
horrible bacteria is shocking to me. The fact it knowingly exposes the public,
who enters the building every day to conduct business, is criminal. The fact
that you, Vivienne Swanigan, and the City Attorney's office are retaliating
against me for standing up for my legal rights and for speaking out and
telling people the danger they face walking into that building is
unconscionable. . . .

My loud and repeated whistling to the Department of Fair Employment and
Housing, the Los Angeles Superior Court, Cal/OSHA, the Los Angeles
Vector Control District and the media has resulted not in the City Attorney's
Office doing the right (and smart) thing, but instead in you (and Vivienne
Swanigan) sending the February 6, 2019 email in which you advise me that
I am being transferred to the airport courthouse, where I will be a
misdemeanor line deputy doing misdemeanor arraignments. This is so
obviously a demotion it constitutes unlawful retaliation under common law
and several sections of the Labor Code. (My attorney is currently amending
the lawsuit to include the latest acts against me.)

The City of Los Angeles created an environment in which I was injured,

1 badly. The standard you should be looking at is one of reasonable
2 accommodation, not “essential function.” However, since you brought it up,
3 driving a vehicle is an essential function of my job. I am required to attend
4 depositions as well as depose plaintiffs, defendants, and witnesses offsite.
5 Further, I am required to attend court hearings all over Los
6 Angeles, Riverside, and Orange Counties. . . .

7 How the City Attorney could knowingly expose its employees to this
8 horrible bacteria is shocking to me. The fact it knowingly exposes the public,
9 who enters the building every day to conduct business, is criminal. The fact
10 that you, Vivienne Swanigan, and the City Attorney’s office are retaliating
11 against me for standing up for my legal rights and for speaking out and
12 telling people the danger they face walking into that building is
13 unconscionable. . . .

14 My loud and repeated whistling to the Department of Fair Employment and
15 Housing, the Los Angeles Superior Court, Cal/OSHA, the Los Angeles
16 Vector Control District and the media has resulted not in the City Attorney’s
17 Office doing the right (and smart) thing, but instead in you (and Vivienne
18 Swanigan) sending the February 6, 2019 email in which you advise me that
19 I am being transferred to the airport courthouse, where I will be a
20 misdemeanor line deputy doing misdemeanor arraignments. This is so
21 obviously a demotion it constitutes unlawful retaliation under common law
22 and several sections of the Labor Code. (My attorney is currently amending
23 the lawsuit to include the latest acts against me.)

24
25 472. On February 13, 2019, Plaintiff filed a complaint with the U.S. Department of Occupational
26 Safety and Health Administration (Federal OSHA) alleging retaliation for filing a complaint with
27 Cal/OSHA regarding safety and health hazards at her workplace.

28 473. On February 14, 2019, Plaintiff saw infectious disease specialist Richard T. Sokolov, M.D.
(another City-designated doctor). Dr. Sokolov directed that Plaintiff be off work for the next three weeks.
Dr. Sokolov told Plaintiff that since she was still suffering from vertigo, her brain had not recovered from
the typhus, so she should not be working. Dr. Sokolov also stated it was his professional opinion that
Plaintiff had contracted the typhus while working at City Hall East.

474. Also on February 14, 2019, Plaintiff sent another very long email to David Trujillo. Among
other things, Plaintiff wrote:

I object to the term “Personal Medical Leave” since this is leave which is
necessary because of an on-the-job injury, and for which I have filed a
workers’ comp claim. I am also confused regarding what this means. It is
not clear to me whether the medical leave is intended to be from now until
the City Attorney’s Office comes up with an appropriate reasonable
accommodation, or whether it is only for Monday, Wednesday, and
Thursday of this week. That question is probably not that important now,
though, because today I saw the infectious disease doctor Richard Sokolov,

1 M.D. (who U.S. HealthWorks referred me to and will be my industrial injury
2 treating physician), and he put me off work for three weeks, effective today.
3 A copy of Dr. Sokolov's prescription placing me off work is attached to this
4 email.

5 I cannot tell you how disappointing it is to see the level of indifference the
6 City Attorney's office has shown to me, to the safety of the employees who
7 work in City Hall East, and to the health of the members of the public forced
8 to come to the building to conduct their business with the City. This office
9 has been on notice of my illness since November 27, 2018. Their failure to
10 act, their failure to even notify people of the danger they face walking into
11 the building is grossly negligent and a complete abdication of the public
12 trust.

13 475. On February 22, 2019, the Acting Human Resources Director, Stephanie B. Ybarra, sent
14 Plaintiff a letter advising her that her "request for a personal medical leave of absence extension" had been
15 "approved as a reasonable accommodation for the continuous period of February 11, 2019 through March
16 7, 2019." In a total denial of their part in causing Plaintiff's injuries, EMPLOYER Defendants continue
17 to use the terms "personal medical leave of absence" and "reasonable accommodation" even though
18 Plaintiff was unable to work because of an on-the-job injury, Plaintiff had filed a workers' compensation
19 claim, and the City-designated infectious disease specialist had stated Plaintiff was unable to work. The
20 letter was also emailed to Julie San Juan, Plaintiff's new supervisor at her new assignment at the Pacific
21 Office, Criminal Branch.

22 476. Later on February 22, 2019, Plaintiff sent an email to David Trujillo in which she wrote:

23 I received your letter granting personal medical leave until March 7, 2019,
24 due to my recovering from the typhus I contracted at work. My next doctor's
25 appointment is March 14, 2019, so I am unsure how you wish for me to go
26 to work, or to where you expect me to report prior to my next doctor's
27 appointment. I will not have a medical release before that appointment.

28 I have still not received a phone call from anyone at the City Attorney's
office inquiring about my health. I mention that because it is shockingly rude
and insensitive. Nor have I received any communication whatsoever that
resembles a conversation about what would be a reasonable accommodation
after management let the health and cleanliness conditions in City Hall East
reach the point that I almost died. I have only received orders to show up at
different work sites for different jobs.

Our last communication involved my unilateral and involuntarily transfer.
I called my association for assistance because involuntary transfers involve
the MOU, and in my case also violate Whistleblower statutes. Someone told
Oscar Winslow, the Association President, that I requested the transfer. I did
not. That was a lie. I asked you with which supervisor I should begin the
grievance process. You replied characterizing my response as a refusal of
your reasonable accommodation but never answered my question about

1 which supervisor I should contact.

2 Based on your response I incorrectly assumed that transfer was not going to
3 happen. Julie San Juan was included in today's email, but not Cory Brente.
4 Should I assume the office is continuing with the illegal unilateral
5 involuntary transfer?

6 I look forward to your rapid response.

7 477. David Trujillo responded (on February 22) that the transfer to the Pacific Office, Criminal
8 Branch was "no longer happening," although he gave no indication regarding whether anything *would* be
9 happening. EMPLOYER Defendants have still not accommodated Plaintiff's disabilities, however.
10 EMPLOYER Defendants have not fumigated City Hall or City Hall East. They have not even removed the
11 carpeting. EMPLOYER Defendants have also not increased the custodial crews, and have not provided
12 employees and visitors to the building with any type of protective clothing they could wear.

13 478. As of this date, Plaintiff has still not returned to work, because she is still suffering from
14 severe vertigo, dizziness, and disequilibrium and is therefore unable to drive, and because the building
15 where her office is located has still not been fumigated.

16 479. Plaintiff has repeatedly requested that the building where she works (City Hall East) be
17 fumigated before she returns to work. Even though Defendant CITY began fumigating other buildings in
18 October 2018, EMPLOYER Defendants have failed and refused to fumigate City Hall East. (The Los
19 Angeles Police Department buildings have been fumigated on about October 10, October 26, and December
20 14, 2018.) Plaintiff has pointed out that, because of her auto-immune disorder, she is at greater risk than
21 others for re-contracting typhus, but EMPLOYER Defendants have still failed and refused to fumigate City
22 Hall East or to allow Plaintiff to do her job in the Police Litigation Unit somewhere other than downtown.

23 480. Plaintiff's most recent medical leave expired March 7, 2019. She has been unable to see Dr.
24 Sokolov again to either have her leave extended or be cleared to return to work, because her workers'
25 compensation claim had been closed, either by Defendant CITY or by its workers' compensation
26 administrator, Elite Claims.

27 481. There is clearly a causal link between Plaintiff's complaints of unsafe conditions and the
28 adverse employment actions which were taken against her by Defendant CITY and Defendant CITY
ATTORNEY'S OFFICE almost immediately thereafter. Among other things, Defendant CITY and

1 Defendant CITY ATTORNEY’S OFFICE (on January 31, 2019) ordered Plaintiff to return to work right
2 after Plaintiff was interviewed by Joel Grover of NBC 4 local news, and then (on February 6, 2019), within
3 days of Plaintiff speaking to various media about contracting typhus while working at City Hall East,
4 demoting Plaintiff from being a Deputy City Attorney who was defending Defendant CITY in million-dollar
5 cases against the Los Angeles Police Department and its employees (mostly brought in federal court), to
6 an attorney assigned to handle misdemeanor arraignments at the LAX courthouse – an entry-level
7 assignment which she had performed over 20 years earlier.

8 482. As a direct and legal result of Defendants’ unlawful actions, Plaintiff has suffered economic
9 damages pursuant to Civil Code sections 3281, 3283, and 3333. Plaintiff has and will continue to suffer
10 a loss of earnings and benefits, and other employment benefits and job opportunities. Plaintiff has suffered
11 economic damages because of being required to exhaust her paid vacation and paid sick leave, because of
12 having to take unpaid leave, and because of having to pay her own medical expenses when Defendants
13 (once again) terminated her health insurance, all as a result of Defendants’ unlawful actions. Plaintiff has
14 also suffered irreparable harm to her career by being forced into this situation where she was required to
15 speak out regarding the unsafe working conditions at the offices occupied by Defendant CITY
16 ATTORNEY’S OFFICE.

17 483. As a direct and legal result of Defendants’ unlawful actions, Plaintiff has also suffered and
18 continues to suffer an exacerbation of her typhus symptoms, conditions and disabilities, pain and suffering,
19 mental anguish, depression, anxiety, loss of self-esteem, anhedonia, humiliation, damage to her reputation,
20 and general emotional distress.

21 484. As a further direct and legal result of the acts and omissions of Defendants, Plaintiff has been
22 forced and/or will be forced to incur expenses for medical care including, but not limited to, treatment by
23 physicians and other health professionals, medical examinations, medical procedures, laboratory costs,
24 prescription medications, and other incidental medical expenses. Plaintiff is therefore entitled to
25 compensatory damages in an amount to be proven at trial.

26 485. As a direct result of the actions and conduct described above, which constitute violations
27 of Labor Code section 1102.5, Plaintiff has been damaged and seeks penalties against Defendants pursuant
28 to Labor Code sections 1102.5(f).

1 **FOURTEENTH CAUSE OF ACTION**

2 **WHISTLEBLOWING – VIOLATION OF LABOR CODE SECTION 6310**

3 **[Against EMPLOYER Defendants and DOE Defendants]**

4 486. Plaintiff realleges and incorporates herein by reference Paragraphs 1 through 164 above, as
5 though fully set forth in this cause of action.

6 487. This cause of action is brought pursuant to Labor Code section 6310. EMPLOYER
7 Defendants have at all relevant times herein been employers pursuant to Industrial Welfare Commission
8 Wage Order 4-2001, § 2(H) and Labor Code section 6310. Plaintiff is and was an employee of
9 EMPLOYER Defendants.

10 488. Labor Code section 6310 prohibits discrimination against any employee because the
11 employee has made any oral or written complaint to Cal/OSHA, other governmental agencies having
12 statutory responsibility for or assisting Cal/OSHA with reference to employee safety or health, or her
13 employer. Labor Code section 6310 also prohibits discrimination against any employee because the
14 employee has instituted or caused to be instituted any proceeding under or relating to her rights pursuant
15 to Cal/OSHA. Labor Code section 6310 also prohibits discrimination against any employee because the
16 employee has reported a work-related fatality, injury, or illness.

17 489. Any employee who is demoted or in any other manner discriminated against in the terms and
18 conditions of employment by her employer because the employee has made a bona fide oral or written
19 complaint to Cal/OSHA, other governmental agencies having statutory responsibility for or assisting the
20 division with reference to employee safety or health, her employer, or her representative, of unsafe working
21 conditions, or work practices, in her employment or place of employment, or has participated in an
22 employer-employee occupational health and safety committee, shall be entitled to reimbursement for lost
23 wages and work benefits caused by the acts of the employer. Any employer who willfully refuses to
24 promote, or otherwise restore an employee or former employee who has been determined to be eligible for
25 promotion by a grievance procedure, arbitration, or hearing authorized by law, is guilty of a misdemeanor.

26 490. On Thursday, November 1, 2018, Plaintiff became extremely ill, with a very high fever, and
27 was diagnosed as probable Viral Meningitis. Plaintiff's physician (Terry Ishihara, M.D.) wanted to admit
28 Plaintiff to the hospital, but she Declined to go because of being without health insurance. Plaintiff could

1 not even have blood tests performed because of the lack of health insurance. Dr. Ishihara advised Plaintiff
2 that she would need to stay in bed for at least a week, and probably longer. On November 1, 2018, Plaintiff
3 advised both Defendant BRENTE and HR Analyst David Trujillo that she was sick, that she probably had
4 Viral Meningitis, and that her doctor had advised at least a week of bed rest.

5 491. On Monday, November 5, 2018, persons from the Police Litigation Unit started emailing
6 Plaintiff assignments to do at home. Not only was Plaintiff very ill, but she did not have any of the files
7 she would need in order to do the work she was being assigned anyway. Plaintiff notified both the Police
8 Litigation Unit and David Trujillo of these facts.

9 492. On November 8, 2018, Plaintiff learned that her health insurance had been reactivated.²¹
10 Plaintiff was still very ill at this time. Her fever was not as high as previously, but she was still suffering
11 from fever, headaches, chills, and severe vertigo. On November 20, Plaintiff's physician said it could take
12 up to two weeks for her to recover from what, at that point, had been diagnosed as Viral Meningitis.
13 Plaintiff's physician provided her with a note stating she could not return to work until December 3, 2018.

14 493. While Plaintiff was at the doctor on November 20, she had blood drawn for the purpose of
15 testing for typhus. On November 27, 2018, Plaintiff learned she had typhus (specifically, typhus fever
16 Group IgG, IgM). Typhus is a very serious disease, which can be fatal if left untreated. Typhus can cause
17 Viral Meningitis. Although typhus is highly treatable with antibiotics, Plaintiff could not go to the hospital
18 or even have blood tests until almost three weeks after her symptoms started, because her health insurance
19 had not yet been re-activated (even though she was eligible for re-activation starting October 27, 2018).

20 494. Plaintiff most likely contracted typhus while working for EMPLOYER Defendants. Typhus
21 is transmitted by fleas and is believed to have started in the homeless encampments in downtown Los
22 Angeles. There has been a typhus epidemic in downtown Los Angeles since about September 2018. The
23 county designated a 279-acre area bounded by Third, Seventh, Alameda, and Spring streets as the "Typhus
24 Zone." Plaintiff's office is only two blocks outside the Typhus Zone.

25 495. On November 29, 2018, Plaintiff sent an email to Defendant BRENTE, copied to David
26

27 ²¹Plaintiff was eligible for health insurance starting October 27, 2018, but despite Plaintiff urging
28 EMPLOYER Defendants to hurry and get her insurance re-activated, Plaintiff's health insurance was not
actually re-activated until November 8, 2018.

1 Trujillo, in which she wrote:

2 Given the fact there is a typhus outbreak in Downtown LA I would like to
3 file a workers' compensation claim. Would you please send me the
4 paperwork.

5 Thank you very much.

6 David Trujillo replied that he would have "Nancy send over the paperwork." Plaintiff submitted a workers'
7 compensation Employee's Report of Injury/Illness to the Human Resources Department within Defendant
8 CITY ATTORNEY'S OFFICE, relating to her typhus diagnosis, on December 1, 2018. In that document,
9 Plaintiff wrote:

10 There is a typhus outbreak in downtown LA. Sometime the week of
11 10/16/18 while at my office I was bitten by one or more fleas. On November
12 1, 2018, I became violently ill. On 11/27/18, my primary care physician
13 phoned me and informed me I tested positive for typhus.

14 Under "What can the City of Los Angeles do to help prevent similar accidents/incidents?" Plaintiff wrote
15 "Fumigate City Hall East for fleas-immediately. This is a horrible condition."

16 496. Plaintiff did not return to work on December 3, 2018, however, because she was on a
17 planned family vacation through December 10, 2018 plus, as it turned out, she was still ill from the typhus
18 the entire time, so she spent most of the vacation in bed, with intermittent fevers and with severe headaches.
19 Plaintiff planned to return to work on December 11, 2018, but was unable to return for two reasons: 1) She
20 was still suffering from severe vertigo, dizziness, and disequilibrium which are symptoms of typhus; and
21 2) She feared contracting typhus again, since her office is within two blocks of the Typhus Zone. (Typhus
22 can be contracted repeatedly, and since Plaintiff has an auto-immune disorder, she is at increased risk for
23 contracting typhus. In California, an employee is not required to work under hazardous working conditions
24 which present a serious risk of harm.) Although EMPLOYER Defendants had indicated they had sprayed
25 pesticide in Plaintiff's personal office, the rest of the building had not been fumigated, so Plaintiff would
26 still not be protected from typhus-carrying fleas.

27 497. Plaintiff most likely contracted typhus while working for EMPLOYER Defendants. Typhus
28 is transmitted by fleas and is believed to have started in the homeless encampments in downtown Los
29 Angeles. There has been a typhus epidemic in downtown Los Angeles since about September 2018. The
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23 contracting typhus. In California, an employee is not required to work under hazardous working conditions
24 which present a serious risk of harm.) Although EMPLOYER Defendants had indicated they had sprayed
25 pesticide in Plaintiff’s personal office, the rest of the building had not been fumigated, so Plaintiff would
26 still not be protected from typhus-carrying fleas.

27 500. On December 9, 2018, Plaintiff learned that her health insurance had been changed from
28 Anthem, to Kaiser Permanente, without anyone even giving her any notice of this change. (Plaintiff found

1 out when she attempted to get a prescription refilled at the pharmacy.)

2 501. On December 20, 2018, when Plaintiff learned that Defendant CITY was not planning to
3 fumigate the City Hall East Building, she made a complaint to the California Division of Occupational
4 Safety and Health (DOSH), better known as Cal/OSHA, regarding the typhus outbreak, and the fact that
5 she contracted typhus. Also on December 20, 2018, Cal/OSHA sent a letter to Defendant CITY
6 ATTORNEY'S OFFICE, notifying it that a complaint had been filed and giving it five days to respond.
7 Plaintiff has been informed and therefore believes that Cal/OSHA has begun an investigation into her
8 complaint.

9 502. In early January 2019, Plaintiff contacted the Los Angeles County Vector Control District
10 and advised them that she had contracted typhus while working at City Hall East.

11 503. On January 10, 2019 and again on January 22, 2019, Plaintiff (through her attorney)
12 complained to Vivienne Swanigan about the flea and rat infestation at City Hall East which had caused
13 Plaintiff to contract typhus, and demanded that City Hall East be fumigated or Cal/OSHA indicated the
14 building was safe for employees to work there.

15 504. On January 31, 2019, David Trujillo sent an email to Plaintiff in which he stated "driving
16 or operating heavy equipment" were not "essential functions" of Plaintiff's Deputy City Attorney position,
17 **and that Plaintiff was expected to report for work on Monday, February 4, 2019.** In fact, Defendant
18 BRENTÉ had stated in his June 12, 2017 memo titled "Essential Functions of Deputy City Attorneys in
19 Police Litigation Unit":

20 It should be noted that taking and defending depositions often involves travel
21 both in southern California and across the United States . . . the duties
22 include defending the case at trial, which involves travel to and from court
23 (by walking or car) . . . While most of the cases are venued in downtown
Los Angeles, some federal cases are assigned to the Santa Ana and Riverside
courthouses, and some superior court cases are assigned to the San Fernando
Valley or other branch courthouses.

24 Plaintiff alleges that this January 31, 2019 order that she report for work was in retaliation both for Plaintiff
25 filing and serving her DFEH Complaint and for reporting to Cal/OSHA, Los Angeles County Vector
26 Control District, and Vivienne Swanigan about contracting typhus at City Hall East and about the safety
27 issues which existed at City Hall East. Plaintiff further alleges on information and belief that Defendant
28 FEUER directed that the January 31, 2019 order for Plaintiff to report to work be made.

1 505. On February 1, 2019, Plaintiff sent an email to David Trujillo, in reply to his January 31,
2 2019 email ordering her to report to work. In her email, Plaintiff stated, among other things:

3 The conditions in City Hall East are a threat to the health of City employees
4 and to the public health. The City Attorney's office has been contacted by
5 Cal/OSHA about the threat to public health and has ignored their letter. From
6 my understanding, the City Attorney has not even notified other departments
7 that a City Attorney employee contracted typhus at City Hall East. No one
8 has notified the Mayor's office.

9 The fact the City Attorney has known of this health threat since November
10 2018; known that a City employee has been diagnosed with typhus since
11 December 2018; was contacted by Cal/OSHA December 20, 2018; has my
12 medical records proving I have Typhus since January 10, 2019; and has done
13 nothing about protecting the employees or the public entering the building
14 is obscene. The City Attorney has not even notified others in the building
15 that an employee was infected so they know of their exposure there or they
16 can take precautions. I would also add that the rat problem at City Hall East
17 is not new. This has been going on for years, and the City and the City
18 Attorney's Office allowed the infestation to get so out of control that people
19 are being exposed to a disease which is most often associated with
20 devastating epidemics from the Middle Ages.

21 I have been employed by the City Attorney's Office for over 22 years, and
22 am being treated like the trash which is lining the streets around City Hall
23 East. I seriously doubt a male who is a 22-year deputy city attorney and
24 contracted Typhus on the job would be treated as I have been and am being
25 treated. I should not be surprised, though, as this discrimination on the basis
26 of sex has been consistent behavior by the City Attorney's Office over the
27 years.

28 I implore the City and the City Attorney's Office to protect the City
employees, clients, co-counsel and opposing counsel, witnesses, contractors,
and the public from this public health crisis you are allowing to continue.

19 506. On or about February 5, 2019, Plaintiff told Oscar Winslow, President of the Los Angeles
20 City Attorneys Association (LACAA), about her typhus diagnosis. Mr. Winslow was very surprised, since
21 no one at Defendant CITY ATTORNEY'S OFFICE had told its employees anything about protecting
22 themselves from typhus-carrying fleas. Something as simple as advising employees to wear boots would
23 have provided them a small amount of protection.

24 507. On February 6, 2019 David Trujillo sent Plaintiff an email notifying her that she was
25 expected to report to her new supervisor Julie San Juan at her **new work location** at the Pacific Office,
26 Criminal Branch (11701 S. La Cienega Boulevard, Los Angeles 90045) on February 11 (even though
27 Plaintiff had previously submitted documents from U.S. HealthWorks stating that she was "temporarily
28 partially disabled" and was "not to drive or operate heavy machinery" through February 11, 2019). In this

1 position, Plaintiff would be handling misdemeanor arraignments at the Pacific Office, Criminal Branch.
2 A change in assignment from working in the Police Litigation Unit, where she was defending Defendant
3 CITY in million-dollar cases, to a position handling misdemeanor arraignments (which is an entry-level job)
4 was humiliating and demeaning. This was clearly a change to an inferior position, with much less status
5 than the position Plaintiff had held with the Police Litigation Unit, and was therefore an involuntary and
6 wrongful demotion. Additionally, this demotion did nothing to address the accommodation Plaintiff needed
7 relating to her inability to drive due to vertigo caused by the typhus. Plaintiff alleges that this February 6,
8 2019 demotion was in direct retaliation for her continued complaining, both internally and to the media,
9 about the typhus epidemic and, specifically, the flea-infestation at City Hall East. Plaintiff further alleges
10 on information and belief that Defendant FEUER directed Plaintiff's demotion from working in the Police
11 Litigation Unit to handling misdemeanor arraignments at the LAX courthouse for the Pacific Office,
12 Criminal Branch.

13 508. On February 8, 2019, knowing Plaintiff had previously submitted documents from U.S.
14 HealthWorks stating that she was "temporarily partially disabled" and was "**not to drive** or operate heavy
15 machinery" **through February 11, 2019**, David Trujillo sent Plaintiff an email with instructions regarding
16 where she was to **park on February 11**, when she reported for her new (demoted) assignment handling
17 misdemeanor arraignments at the Pacific Office, Criminal Branch.

18 509. On February 11, 2019, Plaintiff once again went to U.S. HealthWorks, where she was once
19 again designated as "temporarily partially disabled." Since Plaintiff was going to see the City-designated
20 infectious disease specialist on February 14, the doctor at U.S. HealthWorks extended her disability period
21 only through February 14, 2019. Plaintiff emailed the Work Status Report and Injury Status Report to HR
22 Analyst David Trujillo on February 11, 2019.

23 510. Also on February 11, 2019, Plaintiff sent David Trujillo a very long email, stating her
24 objections to the demotion to the Pacific Office, Criminal Branch (handling misdemeanor arraignments at
25 the LAX courthouse). Among other things, Plaintiff wrote:

26 In early December 2018, I reported the typhus danger to Los Angeles County
27 Health Department, Acute Communicable Disease Department. On
28 December 20, 2018, I reported the typhus danger at City Hall East, and the
City Attorney's refusal to take any action to protect its employees, to
Cal/OSHA. In early January 2019, I reported the same health dangers the

1 City Attorney was knowingly allowing to persist to Los Angeles County
2 Vector Control District.

3 I also filed a complaint with the Department of Fair Employment and
4 Housing, which was served on the City Attorney's Office on January 17.
5 Later in January, after the City Attorney's office continued to stonewall me
6 over the public health issue it was allowing to persist, I started talking to
7 NBC. I talked to Joel Grover about the failure of the City Attorney's Office
8 to protect me and then for the past several months its employees (and the
9 members of the public who visit City Hall and City Hall East) from typhus.
10 We discussed at length the City Attorney's Office had known about this for
11 months and had not even sent a department wide email warning employees
12 about the danger they faced.

13 The day after the City Attorney's administration received a call from Joel
14 Grover regarding safety precautions taken after my diagnosis, on January 31,
15 you sent me an email once again ordering me back to work "or else," despite
16 the orders from U.S. HealthWorks – the City's own industrial medicine
17 provider. You falsely stated "driving or operating heavy equipment" is not
18 an essential function of my job. I replied to your email by my email dated
19 February 4. In case you do not recall the contents of my email, I stated:

20 The City of Los Angeles created an environment in which I was injured,
21 badly. The standard you should be looking at is one of reasonable
22 accommodation, not "essential function." However, since you brought it up,
23 driving a vehicle is an essential function of my job. I am required to attend
24 depositions as well as depose plaintiffs, defendants, and witnesses offsite.
25 Further, I am required to attend court hearings all over Los
26 Angeles, Riverside, and Orange Counties. . . .

27 How the City Attorney could knowingly expose its employees to this
28 horrible bacteria is shocking to me. The fact it knowingly exposes the public,
who enters the building every day to conduct business, is criminal. The fact
that you, Vivienne Swanigan, and the City Attorney's office are retaliating
against me for standing up for my legal rights and for speaking out and
telling people the danger they face walking into that building is
unconscionable. . . .

My loud and repeated whistling to the Department of Fair Employment and
Housing, the Los Angeles Superior Court, Cal/OSHA, the Los Angeles
Vector Control District and the media has resulted not in the City Attorney's
Office doing the right (and smart) thing, but instead in you (and Vivienne
Swanigan) sending the February 6, 2019 email in which you advise me that
I am being transferred to the airport courthouse, where I will be a
misdemeanor line deputy doing misdemeanor arraignments. This is so
obviously a demotion it constitutes unlawful retaliation under common law
and several sections of the Labor Code. (My attorney is currently amending
the lawsuit to include the latest acts against me.)

The City of Los Angeles created an environment in which I was injured,
badly. The standard you should be looking at is one of reasonable
accommodation, not "essential function." However, since you brought it up,
driving a vehicle is an essential function of my job. I am required to attend
depositions as well as depose plaintiffs, defendants, and witnesses offsite.
Further, I am required to attend court hearings all over Los

1 Angeles, Riverside, and Orange Counties. . . .

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3 horrible bacteria is shocking to me. The fact it knowingly exposes the public,
4 who enters the building every day to conduct business, is criminal. The fact
5 that you, Vivienne Swanigan, and the City Attorney's office are retaliating
6 against me for standing up for my legal rights and for speaking out and
7 telling people the danger they face walking into that building is
8 unconscionable. . . .

9 My loud and repeated whistling to the Department of Fair Employment and
10 Housing, the Los Angeles Superior Court, Cal/OSHA, the Los Angeles
11 Vector Control District and the media has resulted not in the City Attorney's
12 Office doing the right (and smart) thing, but instead in you (and Vivienne
13 Swanigan) sending the February 6, 2019 email in which you advise me that
14 I am being transferred to the airport courthouse, where I will be a
15 misdemeanor line deputy doing misdemeanor arraignments. This is so
16 obviously a demotion it constitutes unlawful retaliation under common law
17 and several sections of the Labor Code. (My attorney is currently amending
18 the lawsuit to include the latest acts against me.)

19
20 511. On February 13, 2019, Plaintiff filed a complaint with the U.S. Department of Occupational
21 Safety and Health Administration (Federal OSHA) alleging retaliation for filing a complaint with
22 Cal/OSHA regarding safety and health hazards at her workplace.

23 512. On February 14, 2019, Plaintiff saw infectious disease specialist Richard T. Sokolov, M.D.
24 (another City-designated doctor). Dr. Sokolov directed that Plaintiff be off work for the next three weeks.
25 Dr. Sokolov told Plaintiff that since she was still suffering from vertigo, her brain had not recovered from
26 the typhus, so she should not be working. Dr. Sokolov also stated it was his professional opinion that
27 Plaintiff had contracted the typhus while working at City Hall East.

28 513. Also on February 14, 2019, Plaintiff sent another very long email to David Trujillo. Among
other things, Plaintiff wrote:

I object to the term "Personal Medical Leave" since this is leave which is
necessary because of an on-the-job injury, and for which I have filed a
workers' comp claim. I am also confused regarding what this means. It is
not clear to me whether the medical leave is intended to be from now until
the City Attorney's Office comes up with an appropriate reasonable
accommodation, or whether it is only for Monday, Wednesday, and
Thursday of this week. That question is probably not that important now,
though, because today I saw the infectious disease doctor Richard Sokolov,
M.D. (who U.S. HealthWorks referred me to and will be my industrial injury
treating physician), and he put me off work for three weeks, effective today.
A copy of Dr. Sokolov's prescription placing me off work is attached to this
email.

1 I cannot tell you how disappointing it is to see the level of indifference the
2 City Attorney's office has shown to me, to the safety of the employees who
3 work in City Hall East, and to the health of the members of the public forced
4 to come to the building to conduct their business with the City. This office
5 has been on notice of my illness since November 27, 2018. Their failure to
6 act, their failure to even notify people of the danger they face walking into
7 the building is grossly negligent and a complete abdication of the public
8 trust.

9 514. On February 22, 2019, the Acting Human Resources Director, Stephanie B. Ybarra, sent
10 Plaintiff a letter advising her that her "request for a personal medical leave of absence extension" had been
11 "approved as a reasonable accommodation for the continuous period of February 11, 2019 through March
12 7, 2019." In a total denial of their part in causing Plaintiff's injuries, EMPLOYER Defendants continue
13 to use the terms "personal medical leave of absence" and "reasonable accommodation" even though
14 Plaintiff was unable to work because of an on-the-job injury, Plaintiff had filed a workers' compensation
15 claim, and the City-designated infectious disease specialist had stated Plaintiff was unable to work. The
16 letter was also emailed to Julie San Juan, Plaintiff's new supervisor at her new assignment at the Pacific
17 Office, Criminal Branch.

18 515. Later on February 22, 2019, Plaintiff sent an email to David Trujillo in which she wrote:

19 I received your letter granting personal medical leave until March 7, 2019,
20 due to my recovering from the typhus I contracted at work. My next doctor's
21 appointment is March 14, 2019, so I am unsure how you wish for me to go
22 to work, or to where you expect me to report prior to my next doctor's
23 appointment. I will not have a medical release before that appointment.

24 I have still not received a phone call from anyone at the City Attorney's
25 office inquiring about my health. I mention that because it is shockingly rude
26 and insensitive. Nor have I received any communication whatsoever that
27 resembles a conversation about what would be a reasonable accommodation
28 after management let the health and cleanliness conditions in City Hall East
reach the point that I almost died. I have only received orders to show up at
different work sites for different jobs.

Our last communication involved my unilateral and involuntarily transfer.
I called my association for assistance because involuntary transfers involve
the MOU, and in my case also violate Whistleblower statutes. Someone told
Oscar Winslow, the Association President, that I requested the transfer. I did
not. That was a lie. I asked you with which supervisor I should begin the
grievance process. You replied characterizing my response as a refusal of
your reasonable accommodation but never answered my question about
which supervisor I should contact.

Based on your response I incorrectly assumed that transfer was not going to
happen. Julie San Juan was included in today's email, but not Cory Brente.
Should I assume the office is continuing with the illegal unilateral

1 involuntary transfer?

2 I look forward to your rapid response.

3 516. David Trujillo responded (on February 22) that the transfer to the Pacific Office, Criminal
4 Branch was “no longer happening,” although he gave no indication regarding whether anything *would* be
5 happening. EMPLOYER Defendants have still not accommodated Plaintiff’s disabilities, however.
6 EMPLOYER Defendants have not fumigated City Hall or City Hall East. They have not even removed the
7 carpeting. EMPLOYER Defendants have also not increased the custodial crews, and have not provided
8 employees and visitors to the building with any type of protective clothing they could wear.

9 517. As of this date, Plaintiff has still not returned to work, because she is still suffering from
10 severe vertigo, dizziness, and disequilibrium and is therefore unable to drive, and because the building
11 where her office is located has still not been fumigated.

12 518. Plaintiff has repeatedly requested that the building where she works (City Hall East) be
13 fumigated before she returns to work. Even though Defendant CITY began fumigating other buildings in
14 October 2018, EMPLOYER Defendants have failed and refused to fumigate City Hall East. (The Los
15 Angeles Police Department buildings have been fumigated on about October 10, October 26, and December
16 14, 2018.) Plaintiff has pointed out that, because of her auto-immune disorder, she is at greater risk than
17 others for re-contracting typhus, but EMPLOYER Defendants have still failed and refused to fumigate City
18 Hall East or to allow Plaintiff to do her job in the Police Litigation Unit somewhere other than downtown.

19 519. Plaintiff’s most recent medical leave expired March 7, 2019. She has been unable to see Dr.
20 Sokolov again to either have her leave extended or be cleared to return to work, because her workers’
21 compensation claim had been closed, either by Defendant CITY or by its workers’ compensation
22 administrator, Elite Claims.

23 520. There is clearly a causal link between Plaintiff’s complaints of unsafe conditions and the
24 adverse employment actions which were taken against her by Defendant CITY and Defendant CITY
25 ATTORNEY’S OFFICE almost immediately thereafter. Among other things, Defendant CITY and
26 Defendant CITY ATTORNEY’S OFFICE (on January 31, 2019) ordered Plaintiff to return to work right
27 after Plaintiff was interviewed by Joel Grover of NBC 4 local news, and then (on February 6, 2019), within
28 days of Plaintiff speaking to various media about contracting typhus while working at City Hall East,

1 demoting Plaintiff from being a Deputy City Attorney who was defending Defendant CITY in million-dollar
2 cases against the Los Angeles Police Department and its employees (mostly brought in federal court), to
3 an attorney assigned to handle misdemeanor arraignments at the LAX courthouse – an entry-level
4 assignment which she had performed over 20 years earlier.

5 521. As a direct and legal result of Defendants' unlawful actions, Plaintiff has suffered, and will
6 continue to suffer, lost wages and benefits pursuant to Labor Code section 6310 because of being unable
7 to return to work, because of being required to exhaust her paid vacation and paid sick leave, because of
8 having to take unpaid leave, and because of having to pay her own medical expenses when Defendants
9 (once again) terminated her health insurance, all as a result of Defendants' unlawful actions.

11 **PRAYER FOR RELIEF**

12 WHEREFORE, Plaintiff prays for judgment as follows on all causes of action:

13 On the First through Tenth Causes of Action – For Violations of the FEHA:

- 14 1) For compensatory damages including damages for lost earnings and benefits and other employment
15 benefits and job opportunities, mental suffering, emotional distress, medical expenses, and other
16 special and general damages according to proof at trial;
- 17 2) For prejudgment interest at the maximum legal rate;
- 18 3) For punitive and exemplary damages in an amount appropriate to punish Defendants (who are not
19 public entities)and to deter others from engaging in similar conduct, pursuant to the FEHA, Civil
20 Code section 3294, and all other applicable statutes;
- 21 4) For the payment of Plaintiff's reasonable attorney fees and expert witness fees pursuant to
22 Government Code section 12965(b), and all other applicable statutes;
- 23 5) For costs of suit herein incurred; and
- 24 6) For such other and further relief as the court may deem just and proper.

26 On the Eleventh Causes of Action – For Retaliation in Violation of the First Amendment

- 27 1) For compensatory damages including damages for lost earnings and benefits and other employment
28 benefits and job opportunities, mental suffering, emotional distress, medical expenses, and other

special and general damages according to proof at trial;

- 2) For prejudgment interest at the maximum legal rate;
- 3) For punitive and exemplary damages in an amount appropriate to punish Defendants (who are not public entities)and to deter others from engaging in similar conduct, pursuant to Civil Code section 3294, and all other applicable statutes;
- 4) For costs of suit herein incurred; and
- 5) For such other and further relief as the court may deem just and proper.

On the Twelfth Causes of Action – for Whistleblowing – Common Law Retaliation in Violation of Public Policy:

- 1) For compensatory damages including damages for lost earnings and benefits and other employment benefits and job opportunities, mental suffering, emotional distress, medical expenses, and other special and general damages according to proof at trial;
- 2) For prejudgment interest at the maximum legal rate;
- 3) For punitive and exemplary damages in an amount appropriate to punish Defendants (who are not public entities) and to deter others from engaging in similar conduct, pursuant to Civil Code section 3294, and all other applicable statutes;
- 4) For costs of suit herein incurred; and
- 5) For such other and further relief as the court may deem just and proper.

On the Thirteenth Causes of Action – For Whistleblowing – Retaliation in Violation of California Labor Code Section 1102.5

- 1) For compensatory damages including damages for lost earnings and benefits and other employment benefits and job opportunities, mental suffering, emotional distress, medical expenses, and other special and general damages according to proof at trial;
- 2) For prejudgment interest at the maximum legal rate;
- 3) For penalties against Defendants pursuant to Labor Code sections 1102.5(f);
- 4) For costs of suit herein incurred; and

5) For such other and further relief as the court may deem just and proper.

On the Fourteenth Causes of Action – For Whistleblowing – Violation of Labor Code Section 6310:

- 1) For compensatory damages including damages for lost earnings and benefits and other employment benefits and job opportunities, mental suffering, emotional distress, medical expenses, and other special and general damages according to proof at trial;
- 2) For prejudgment interest at the maximum legal rate;
- 3) For costs of suit herein incurred; and
- 4) For such other and further relief as the court may deem just and proper.

Dated: May 21, 2019

ESKRIDGE LAW

/s/ GAYLE L. ESKRIDGE

By Gayle L. Eskridge/Janelle L. Menges/

Jacqueline M. Wade

Attorneys for Plaintiff ELIZABETH L. GREENWOOD

DEMAND FOR JURY TRIAL

PLAINTIFF Elizabeth L. Greenwood hereby demands a trial by jury on all causes of action alleged herein in the First Amended and Supplemental Complaint.

Dated: May 21, 2019

ESKRIDGE LAW

/s/ GAYLE L. ESKRIDGE

By Gayle L. Eskridge/Janelle L. Menges/

Jacqueline M. Wade

Attorneys for Plaintiff ELIZABETH L. GREENWOOD

EXHIBIT 1

**TO FIRST AMENDED AND SUPPLEMENTAL
COMPLAINT OF ELIZABETH L. GREENWOOD**



DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758
(800) 884-1684 (Voice) | (800) 700-2320 (TTY) | California's Relay Service at 711
<http://www.dfeh.ca.gov> | Email: contact.center@dfeh.ca.gov

KEVIN KISH, DIRECTOR

January 14, 2019

Elizabeth Greenwood
1147 Englander Street
San Pedro, California 90731

RE: **Notice of Case Closure and Right to Sue**
DFEH Matter Number: 201901-04788314
Right to Sue: Greenwood / City of Los Angeles, a municipal corporation et al.

Dear Elizabeth Greenwood,

This letter informs you that the above-referenced complaint was filed with the Department of Fair Employment and Housing (DFEH) has been closed effective January 14, 2019 because an immediate Right to Sue notice was requested. DFEH will take no further action on the complaint.

This letter is also your Right to Sue notice. According to Government Code section 12965, subdivision (b), a civil action may be brought under the provisions of the Fair Employment and Housing Act against the person, employer, labor organization or employment agency named in the above-referenced complaint. The civil action must be filed within one year from the date of this letter.

To obtain a federal Right to Sue notice, you must contact the U.S. Equal Employment Opportunity Commission (EEOC) to file a complaint within 30 days of receipt of this DFEH Notice of Case Closure or within 300 days of the alleged discriminatory act, whichever is earlier.

Sincerely,

Department of Fair Employment and Housing



DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

KEVIN KASH, DIRECTOR

22118 Kausen Drive, Suite 100 | Elk Grove | CA 95758
(800) 884-1684 (Voice) | (800) 700-2320 (TTY) | California's Relay Service at 711
<http://www.dfeh.ca.gov> | Email: contact.center@dfeh.ca.gov

January 14, 2019

RE: Notice of Filing of Discrimination Complaint
DFEH Matter Number: 201901-04788314
Right to Sue: Greenwood / City of Los Angeles, a municipal corporation et al.

To All Respondent(s):

Enclosed is a copy of a complaint of discrimination that has been filed with the Department of Fair Employment and Housing (DFEH) in accordance with Government Code section 12960. This constitutes service of the complaint pursuant to Government Code section 12962. The complainant has requested an authorization to file a lawsuit. This case is not being investigated by DFEH and is being closed immediately. A copy of the Notice of Case Closure and Right to Sue is enclosed for your records.

Please refer to the attached complaint for a list of all respondent(s) and their contact information.

No response to DFEH is requested or required.

Sincerely,

Department of Fair Employment and Housing

**COMPLAINT OF EMPLOYMENT DISCRIMINATION
BEFORE THE STATE OF CALIFORNIA
DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING
Under the California Fair Employment and Housing Act
(Gov. Code, § 12900 et seq.)**

**In the Matter of the Complaint of
Elizabeth Greenwood**

DFEH No. 201901-04788314

Complainant,

vs.

**City of Los Angeles, a municipal corporation
200 N. Main Street, Room 800
Los Angeles, California 90012**

**Office of the Los Angeles City Attorney, a
department of the City of Los Angeles
200 N. Main Street, Room 800
Los Angeles, California 90012**

**Cory Brente
200 N. Main Street, Room 800
Los Angeles, California 90012**

**Michael N. Feuer, City Attorney
200 N. Main Street, Room 800
Los Angeles, California 90012**

Respondents

**1. Respondent City of Los Angeles, a municipal corporation is an employer
subject to suit under the California Fair Employment and Housing Act (FEHA) (Gov.
Code, § 12900 et seq.).**

**2. Complainant Elizabeth Greenwood, resides in the City of San Pedro State of
California.**

**3. Complainant alleges that on or about January 14, 2019, respondent took the
following adverse actions:**

1 **Complainant was harassed** because of complainant's sex/gender,, family care or
2 medical leave (cfra) (employers of 50 or more people), disability (physical or mental),
3 other, pregnancy, childbirth, breast feeding, and/or related medical conditions,
sexual harassment- hostile environment.

4 **Complainant was discriminated against** because of complainant's sex/gender,
5 family care or medical leave (cfra) (employers of 50 or more people), disability
6 (physical or mental), other, pregnancy, childbirth, breast feeding, and/or related
7 medical conditions, sexual harassment- hostile environment and as a result of the
8 discrimination was denied hire or promotion, reprimanded, denied equal pay, asked
9 impermissible non-job-related questions, denied a work environment free of
discrimination and/or retaliation, denied any employment benefit or privilege, denied
reasonable accommodation for a disability, denied family care or medical leave
(cfra) (employers of 50 or more people), other, denied work opportunities or
assignments, denied or forced to transfer.

10 **Complainant experienced retaliation** because complainant reported or resisted
11 any form of discrimination or harassment, requested or used a disability-related
12 accommodation, requested or used leave under the california family rights act or
13 fmla (employers of 50 or more people) and as a result was denied hire or promotion,
14 reprimanded, denied equal pay, asked impermissible non-job-related questions,
15 denied a work environment free of discrimination and/or retaliation, denied any
employment benefit or privilege, denied reasonable accommodation for a disability,
denied family care or medical leave (cfra) (employers of 50 or more people), other,
denied or forced to transfer.

16
17 **Additional Complaint Details:** Please see the attached document entitled "Second
DFEH Complaint Attachment."
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1 VERIFICATION

2 I, **Janelle L. Menges**, am the **Attorney** in the above-entitled complaint. I have read
3 the foregoing complaint and know the contents thereof. The matters alleged are
4 based on information and belief, which I believe to be true.

5 On January 14, 2019, I declare under penalty of perjury under the laws of the State of
6 California that the foregoing is true and correct.

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Torrance, California

**ATTACHMENT TO
DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING COMPLAINT
OF ELIZABETH GREENWOOD**

ABBREVIATIONS

Claimant ELIZABETH L. GREENWOOD is referred to herein as "Claimant."

Respondent CITY OF LOS ANGELES is referred to herein as Respondent CITY.

Respondent OFFICE OF THE LOS ANGELES CITY ATTORNEY is referred to herein as "Respondent CITY ATTORNEY'S OFFICE."

Respondent MICHAEL N. FEUER, CITY ATTORNEY is referred to herein as "Respondent FEUER."

Respondent FEUER, Respondent CITY, and Respondent CITY ATTORNEY'S OFFICE may be jointly referred to herein as the "EMPLOYER Respondents."

Respondent CORY BRENTÉ is referred to herein as "Respondent BRENTÉ."

FACTS

At all relevant times herein, Claimant has been a resident of the County of Los Angeles, State of California and employed by EMPLOYER Respondents. Claimant is a 54-year-old female who has multiple physical disabilities.

At all relevant times herein, Respondent CITY has been a municipal corporation in the County of Los Angeles, State of California.

At all relevant times herein, Respondent CITY ATTORNEY'S OFFICE has been a department of Respondent CITY.

At all relevant times herein, Respondent FEUER has been the City Attorney for Respondent CITY. Respondent FEUER is an elected official, who is in charge of and responsible for Respondent CITY ATTORNEY'S OFFICE, and who serves as the lawyer for Respondent CITY OF LOS ANGELES.

At all relevant times herein, Respondent CITY OF LOS ANGELES and Respondent CITY ATTORNEY'S OFFICE were and now are valid government entities, duly organized and existing under the laws of the State of California, having their principal places of business in the County of Los Angeles, State of California.

At all relevant times herein, Respondent CITY and Respondent CITY ATTORNEY'S OFFICE have each had hundreds of employees.

At all relevant times herein, Respondent BRENTE is and has been a Supervising Assistant City Attorney employed by EMPLOYER Respondents, and assigned to the Police Litigation Unit of Respondent CITY ATTORNEY'S OFFICE. At all relevant times herein, Respondent BRENTE was acting in the course and scope of his employment with EMPLOYER Respondents, as a supervisor, manager, director, or agent of EMPLOYER Respondents.

Claimant has been employed as a Deputy City Attorney with EMPLOYER Respondents since July 1996, when she began as a Deputy City Attorney I, Step A. In May 1998, Claimant was assigned to Central Trials. In March 1999, Claimant was assigned to the Gangs Unit, where she worked as a prosecutor from 1999 to 2007. In March 2007, Claimant was transferred to Homeland Security and promoted to Deputy City Attorney III, Step G (equivalent to Step 13 under the new system). In March 2009, she was transferred to the Neighborhood Prosecutor Program, working as Neighborhood Prosecutor – South Bureau. In that position, Claimant attended community meetings and prosecuted projects and issues which were most negatively affecting the area to which she was assigned.

Over the years, Claimant has received numerous awards and recognitions from Respondent CITY ATTORNEY'S OFFICE, the Los Angeles Police Department, the Office of the District Attorney, the County of Los Angeles, the California State Senate, the California Legislature Assembly, and Congresswoman Jane Harman. Claimant has been positively mentioned in the *Daily Breeze* about 20 times.

In 2009, Claimant began suffering from back pain, as a result of being required to sit at a desk long hours at work, and being provided with inadequate office furniture and equipment. On November 3, 2009, Claimant was diagnosed by Roy Simon, M.D. as having severe lumbar radiculopathy. Claimant underwent x-rays and an MRI of her spine on November 9, 2009; based on that, Arnold Rappaport, M.D. diagnosed her as having disc degenerative changes at multiple levels, and disc protrusion at the L4-5 level, resulting in a mild neural foraminal stenosis.

On November 17, 2009, December 1, 2009, January 8, 2010, and February 2, 2010, Claimant underwent lumbar epidural steroid injections and selective nerve root blocks at L5-S1 (left side). Claimant informed her immediate supervisor at the time, Sonja Dawson (Supervising Neighborhood Prosecutor – South Bureau), and the Human Resources Department of her diagnosis, and of her need to take time off for the medical procedures (which was usually one day per procedure, although a couple times she was off three days per procedure due to anaphylactic reactions). In addition to the procedures mentioned above, Claimant went to physical therapy three times per week at multiple locations, and also worked with a personal strength trainer.

Despite the aggressive treatment, Claimant's symptoms worsened. By March 2010, she had pain when sitting at her desk, driving, lifting, carrying, reaching, bending, and squatting. Her diagnosis

at that time (by William Dillin, M.D.) was: 1) Lumbar Degenerative Disc Disease, 2) Lumbar Radiculopathy, and 3) Lumbar Disc Herniation. Lumbar spine surgery was recommended. On March 12, 2010, Claimant underwent spinal surgery, having: 1) A left L4-L5 Modified Microdiscectomy; 2) A left L4 Hemilaminotomy; and (3) A left L4-L5 Lateral Recess Resection. She was on leave pursuant to the Family and Medical Leave Act ("FMLA") and CFRA for three months, from approximately March 11 through June 5, 2010.

Prior to Claimant's surgery and CFRA leave, she had been assigned to the Neighborhood Prosecutor Program – South Bureau, where she interacted with the community and served as a Neighborhood Prosecutor. She enjoyed this job because it involved working with the community and being in court. Claimant had an office in the San Pedro City Hall during the time she was a Neighborhood Prosecutor, which worked well since Claimant resided in San Pedro.

On September 7, 2010, Claimant was transferred to Housing Enforcement because of a request by Mary Clare Molitor. Claimant did not want this transfer because, for someone who had been a prosecutor in the Gang Unit, then an attorney in Homeland Security, then a Neighborhood Prosecutor, being transferred to Housing Enforcement was not a forward trajectory for her career path, and was not even a lawyer type of job. However, Mary Clare Molitor told Claimant she would continue to be working out of an office in San Pedro (which was of course important to Claimant because driving exacerbated her lumbar spine disability), and attempted to convince Claimant that even though the position was not really an attorney position, but actually more of a mediator position, once she got into the position, she would like it. At Housing Enforcement, Claimant mediated disputes between landlords and tenants related to landlords allegedly not complying with the Los Angeles Rent Stabilization Ordinance. Although she did not like the job at first, Mary Clare Molitor was right – after Claimant performed this job for a while, she came to enjoy it because she thought she was making a difference in peoples' lives.

In September 2010, Claimant informed her new supervisor, Jonathan Galatzan (Supervising Attorney, Housing Enforcement), of her lumbar spine disability almost immediately after being transferred to Housing Enforcement. Later in September 2010, Claimant told Jonathan Galatzan about the lower back pain she was having, especially when sitting in her desk chair at work. (Claimant was working from an office in the San Pedro City Hall at this time, so at least she did not have to spend hours driving.) Over the next few months, Claimant repeatedly told Jonathan Galatzan about the pain she was experiencing while sitting, but Respondents failed to initiate a timely, good-faith, interactive process or to do anything else regarding Claimant's complaints of pain caused by sitting at her desk.

In early 2011, Roy Simon, M.D. prescribed Claimant an anti-inflammatory and a pain medication, and also prescribed that she have an ergonomic chair for work, and that an ergonomic evaluation of her office be conducted. Claimant submitted the prescription for the ergonomic chair to the Human

Resources Department, but absolutely no action was taken.¹ Claimant continued complaining to Jonathan Galatzan about her ongoing back pain while sitting in her desk chair. She asked him to try to get the Human Resources Department to arrange for the ergonomic evaluation, but he was no help at all.

In fact, rather than attempt to assist Claimant in obtaining the ergonomic evaluation, in spring and summer 2011, Jonathan Galatzan began harassing and discriminating against Claimant.² For example, although Claimant was already mediating disputes between landlords and tenants related to landlords allegedly not complying with the Los Angeles Rent Stabilization Ordinance on a city-wide basis (while working from an office in the San Pedro City Hall), Jonathan Galatzan assigned Claimant additional work consisting of code violation cases which required her to travel to downtown Los Angeles on a regular basis. This is not what Claimant had been assigned to do when Mary Clare Molidor caused Claimant to be transferred into Housing Enforcement.³ Claimant did not want this new assignment and did not agree to it. Claimant's workload mediating Rent Stabilization Ordinance violations city-wide was a full-time job, and Claimant also spent several hours per week in her role as an elected commissioner of the Los Angeles City Employees' Retirement System ("LACERS"). Adding code violation cases not only increased Claimant's workload, but required her to spend much more time in downtown Los Angeles, rather than in her office in San Pedro. Also, rather than attempt to assist Claimant in obtaining the ergonomic evaluation of her office (which was in San Pedro), Jonathan Galatzan assigned Claimant to a work area in downtown Los Angeles which consisted of a desk in a storage closet, which was less ergonomically correct than her office in San Pedro, and with a chair which was even more uncomfortable than her chair in San Pedro. The additional travel of course exacerbated Claimant's disability, and she told Jonathan Galatzan this. Jonathan Galatzan nonetheless left the code violation assignments on Claimant's storage closet desk.

Throughout summer and fall, 2011, Claimant complained to Jonathan Galatzan about how the downtown assignments were exacerbating her lumbar spine disability, due both to the travel and the completely non-ergonomic storage closet office. Jonathan Galatzan responded on October 14, 2011, by issuing a Notice to Correct Deficiencies to Claimant, in which he accused her of failing to file four code violation cases on time, even though filing delays had been a longstanding problem within the Housing Enforcement Department for many years before Claimant was assigned to the unit.

¹This was the first of many requests Claimant made for reasonable accommodations for her physical disability.

²This was the beginning of the harassment and discrimination to which Claimant has been subjected because of her physical disability.

³Claimant's job, as requested by Mary Clare Molidor, Senior Assistant City Attorney in Charge of Safe Neighborhoods, was to mediate and prosecute violations of the City's Rent Stabilization Ordinance. It was not to prosecute families who had scraped together enough money to purchase an apartment building where there had been a previous illegal subdivision.

Additionally, the practice in Housing Enforcement was to delay the cases for years, until the owners were able to gather enough money to make the repairs. It was not uncommon for cases to last several years. Sometimes when it was clear the owners did not have any money to make repairs, cases lasted so long that the statute of limitations ran. This was happening for years before Claimant began to be assigned the code violation cases (in addition to her full-time assignment of mediating Rent Stabilization Ordinance violations).

In approximately November 2011, Jonathan Gallatzen was replaced by Donald Cocek. Claimant immediately told Donald Cocek about her back injury, about her pain issues, and about her request for an ergonomic evaluation and an ergonomic chair, which she now needed in two offices (San Pedro and downtown). Claimant asked whether there was anything Donald Cocek could do to assist in obtaining these items. Rather than assist, however, Donald Cocek took the job of mediating Rent Stabilization Ordinance violations away from Claimant, so that she was handling code violation cases exclusively. When Claimant asked why he was doing this, Donald Cocek was not able to articulate a reason. Additionally, the non-disabled male attorney to whom the work was assigned did not even want the work. Changing Claimant's job so that she was handling code violation cases exclusively meant she was required to travel to downtown Los Angeles five days per week, and sit at a non-ergonomic desk in a non-ergonomic chair in the non-ergonomic storage closet office. These things exacerbated Claimant's back pain, and she was in pain 100% of the time she was either at work, or commuting to and from work. During late 2011 and 2012, Claimant repeatedly attempted to discuss this with Donald Cocek, but every time Claimant tried to talk with Donald Cocek, he stared at Claimant's breasts the entire time. (Donald Cocek also stared at Claimant's breasts every time she attempted to have a private conversation with him, and even sometimes when other people were present. Claimant did not report this sexual harassment, as it paled in comparison to the disability discrimination and harassment she was experiencing at the time, and having been working for Respondent CITY and Respondent CITY ATTORNEY'S OFFICE, sexual harassment was not new to her.)

Donald Cocek also constantly interrogated Claimant about the work she was doing for LACERS.⁴ It seemed to irritate him that he could not manage all Claimant's time. When Claimant would inform Donald Cocek regarding when and what she was doing for LACERS, and where she was doing it, he accused her of lying. Donald Cocek even went to Earl Thomas, Chief of Criminal and Special Litigation Division, about this, and Earl Thomas sent Claimant a memo on November 9, 2011. In that memo, Earl Thomas acknowledged that Claimant had "an obligation to perform fiduciary duties on behalf of LACERS," yet demanded that Claimant obtain advance approval from

⁴Claimant is one of seven people who manage LACERS. She was elected to a five-year term in 2009, and re-elected to a second five-year term in 2014. Respondent CITY and Respondent CITY ATTORNEY'S OFFICE pay for Claimant's time spent serving LACERS. What Claimant is doing in her role as an elected member of the Board of Administration of LACERS is none of Donald Cocek's business, but he frequently interrogated Claimant about her work on LACERS, then accused her of lying when she explained what she had been doing.

Donald Cocek before performing any of these fiduciary duties. Around this time, Claimant applied for a position in San Pedro, but right after she applied, the job requisition was canceled.

Claimant's back pain continued to worsen through 2011 and 2012. She repeatedly told Donald Cocek she was experiencing back pain, and needed an ergonomic evaluation of her office. Claimant also called the Human Resources Department during this time, to ask that the ergonomic evaluation (for which she had submitted a prescription in early 2011) be conducted without further delay.

On October 11, 2012, Claimant's father died very unexpectedly. The stress of this death exacerbated Claimant's back pain, and she was forced to take accrued vacation and sick leave from approximately October 2012 to approximately January 29, 2013. EMPLOYER Respondents were aware of Claimant's physical disability because she submitted a February 20, 2013 note from her primary care physician, Terry Ishihara, M.D., to the Human Resources Department. (EMPLOYER Respondents required Claimant to submit a note from her physician before they would classify any of her time off as sick leave. Until she provided the note, the time off had been classified as accrued vacation.)

The first day Claimant returned to work following her medical leave of absence, Donald Cocek gave Claimant a Notice to Correct Deficiencies for failing to file cases which he had assigned to her after she went out on approved leave, and the deadlines for which had passed before she returned from leave. Knowing Claimant was out on extended leave, Donald Cocek should have assigned the cases to other attorneys, but he did not. Instead, he kept the cases assigned to Claimant and waited for the statutes of limitations to run out in some of the cases, and other deadlines to pass in other cases. Claimant refused to sign the Notice to Correct Deficiencies for events which happened while she was on approved leave, and apparently Donald Cocek did not submit it to Personnel, because Claimant heard nothing more about it. Donald Cocek later tried to give Claimant a Notice to Correct Deficiencies relating to her work as an elected Commissioner of LACERS. Even though Donald Cocek had absolutely no involvement with LACERS, he accused Claimant of falsifying her time sheets for the time she was attributing to LACERS responsibilities. Claimant filed a grievance, Mary Clare Molitor mediated the matter, and the Notice to Correct Deficiencies went away. Even at the end of the mediation, however, Donald Cocek accused Claimant of "fudging" her time sheets. Claimant told Mary Clare Molitor she could not work for someone who thought she was a liar. Donald Cocek responded that he did not think Claimant was a liar, but that she needed to be honest on her time sheets. Therefore, although the Notice to Correct Deficiencies went away, nothing changed in Donald Cocek's treatment of Claimant.

On June 3, 2013, Claimant was finally transferred to a position which was commensurate with her many years of experience as a trial attorney. Claimant was transferred to the Police Litigation Unit, where she defends multimillion dollar claims against Respondent CITY in both state and federal court trials. Claimant's supervisor in the Police Litigation Unit was (and still is) Respondent BRENT, Supervising Assistant City Attorney, Police Litigation Unit. This position involves longer hours than Claimant's previous position, and a significant amount of responsibility, and Claimant should have been promoted to at least a Deputy City Attorney IV, Step C, when she was transferred

to this position, but she was not, as a direct result of her sex and physical disability. Claimant alleges on information and belief that male, non-disabled attorneys with less experience, who were performing substantially similar or even less complex and less demanding work, were promoted to ranks of Deputy City Attorney IV, Step C, or higher.

Claimant informed Respondent BRENTÉ of her lumbar spine (musculoskeletal) disability, and of the accommodations she needed for that disability, immediately upon being transferred to the Police Litigation Unit in June 2013.

Although Claimant enjoyed the position in the Police Litigation Unit, she continued to suffer constant pain related to her lumbar spine disability. She complained repeatedly to Respondent BRENTÉ about the need for an ergonomic chair and for an ergonomic evaluation of her office. These complaints lasted through the remainder of 2013 and to the present.

Despite her constant pain and disability-related absences, Claimant has been very successful in her position as trial attorney with the Police Litigation Unit. In January 2014, she obtained a total defense verdict in a federal court bench trial (*Gheli Carpaccio v. Sergeant Todd Cataldi, et al.*). In June 2015, she obtained a defense verdict in a federal court jury trial (*Robert S. Markman and Lisa J. Markman v. Det. John Macchiarella, et al.*), and in September 2017, she won another major federal court jury trial (*Raymond Hiawatha Porter v. City of Los Angeles, et al.*) – each time saving Respondent CITY potentially hundreds of thousands of dollars. Claimant has in fact **never lost a trial** while in the Police Litigation Unit.

On her anniversary date in March 2014, Claimant should have been promoted to Deputy City Attorney IV, Step D, but she was not. (She only received her small anniversary step, which is virtually automatic.) Claimant alleges on information and belief that male, non-disabled attorneys with less experience who were performing substantially similar or even less complex and less demanding work, were promoted to ranks of Deputy City Attorney IV, Step D, or higher.

On her anniversary date in March 2015, Claimant should have been promoted to Deputy City Attorney IV, Step E, but she was not, since she had never even been promoted to the Deputy City Attorney IV position. (She only received her small anniversary step, which is virtually automatic.) Instead, she was stuck in the Deputy City Attorney III, Step G, position, where she had been since March 23, 2007. This failure and/or refusal to promote Claimant was a direct result of her sex and physical disability. Claimant alleges on information and belief that male, non-disabled attorneys with less experience who were performing substantially similar or even less complex and less demanding work, were promoted to ranks of Deputy City Attorney IV, Step E, or higher.

Although Claimant was succeeding in the courtroom, she was continuing to experience constant back pain, especially when working at the desk in her office. Her pain when sitting down was so bad that she had family and friends drive her to and from work, and to and from the courthouses. Claimant's back pain was so severe that she had to go to the emergency department of San Pedro Hospital on July 7, 2015. On July 8, 2015, Claimant reported to her doctor at Kerlan-Jobe that she had pain in her back and left leg which had gotten worse, and that her symptoms worsened as she

sat and drove. At the time, she was unable to lift, carry, reach, bend, push, pull, climb, kneel, or squat. She was diagnosed with: 1) Lumbar degenerative disc disease; 2) Lumbar radiculopathy; and 3) Status post lumbar discectomy. Claimant continued to complain to Respondent BRENTE about her lumbar spine disability, and continued to request accommodations as discussed above.

A July 13, 2015 MRI of Claimant's lumbar spine showed: 1) Degenerative disc disease at L4-5 with a 2mm left lateral disc bulge/protrusion and contiguous 8x5mm left lateral extrusion effacing the left L5 nerve root; 2) Left laminectomy; 3) Disc desiccation at L5-S1 with a 3mm left lateral disc bulge abutting the left L5 and exiting the left L4 nerve roots; 4) Disc desiccation at L1-2 with a 12x4mm contiguous and superior extrusion abutting the posterior margin of the L1 vertebral body; 5) Mild disc desiccation at L3-4 with mild central canal stenosis due to facet and ligamentum flavum hypertrophy; 6) Disc desiccation at the L2-3 level with a 1.5mm central and right lateral disc bulge; and 7) Possible adenomyosis of the uterus. After that, Claimant began seeing Fabian Proano, M.D. for pain management.

Despite the continuous pain she was enduring, Claimant continued to prevail at trial. As mentioned above, in June 2015 Claimant obtained a defense verdict in a federal court jury trial (*Robert S. Markman and Lisa J. Markman v. Det. John Macchiarella, et al.*). Claimant continued trying to work and to deal with her back pain. On August 12, 2015 and again on October 5, 2015, she had a procedure consisting of lumbar selective nerve root blocks at the left L4-L5 level and a lumbar epidural steroid injection at the L4-L5 level.

Having received no response from Respondent BRENTE to her two and one-half years of requests for accommodations for her lumbar spine disability, on January 6, 2016, Claimant sent an email to Wanda Hudson in the Human Resources Department, stating that she had two prescriptions – one for an ergonomic chair and another for an ergonomic analysis of her office. Claimant explained to Wanda Hudson that she had lower back surgery five years earlier and had a reoccurrence of the problem in June 2015. Claimant explained that she was healing slowly and that although her office chair was only a couple years old, after sitting in the chair for a while, she had quite a bit of pain and difficulty standing back up. Claimant told Wanda Hudson that she hoped a new ergonomic chair, coupled with an ergonomic analysis of her office, would help. Claimant attached the new prescription for her chair to the email and said she could also get the prescription for the ergonomic analysis if needed. Claimant copied her supervisor, Respondent BRENTE, on the email to Wanda Hudson and, on January 7, 2016, forwarded the email to Cristina Sarabia, Human Resources Director.

On January 8, 2016, Cristina Sarabia sent an email in which she instructed Claimant to submit her requests for an ergonomic chair and an ergonomic evaluation to the Occupational Safety and Health Division of Respondent CITY's Personnel Department. Cristina Sarabia stated that Claimant needed to get her supervisor to approve her request (which seems very strange, since her supervisor is not an ergonomics specialist, and had in fact done nothing to facilitate Claimant obtaining the ergonomic items up to that point), and that after that happened, an appointment would be scheduled within two to three weeks. Cristina Sarabia further stated that, once the Occupational Safety and Health

Division determined what ergonomic items Claimant required, the Human Resources Department would work with Claimant to get the recommended equipment to her "promptly." Claimant immediately submitted her requests for an ergonomic chair and an ergonomic evaluation to the Occupational Safety and Health Division of Respondent CITY's Personnel Department, as directed by Cristina Sarabia.

An ergonomic evaluation of Claimant's workstation was conducted on February 1, 2016. On February 16, 2016, Daniela Zaccaro, Ergonomist with the Occupational Safety and Health Division, issued a report in which she listed the equipment which Claimant required. This included a chair with a tailbone cut-out, a document holder, a monitor arm, and an adjustable footstool. The report provided:

The requesting department supervisor or referring agent is responsible for addressing and carrying out the recommendations in this report. This includes ordering, purchasing, and installing equipment as well as making arrangements for recommended modifications to the workstation. For City owned buildings, General Services Division can install some equipment. . . .

[Emphasis added.] Claimant's department supervisor was Respondent BRENTÉ.

Also on February 16, 2016, Daniela Zaccaro sent an email to Respondent BRENTÉ, Wanda Hudson, and Claimant, in which she provided information on possible vendors, and stated:

The requesting department supervisor or referring agent is responsible for addressing and carrying out the recommendations in this report. This includes ordering, purchasing, and installing equipment as well as making arrangements for recommended modifications to the workstation. For City owned buildings, General Services Division can install some equipment. . . .

[Emphasis added.] By this time it had been about six weeks since Claimant submitted her most recent request for an ergonomic chair and an ergonomic evaluation.⁵ On February 29, 2016, Claimant had additional injections of steroids, bilaterally at the L4-S1 level.

On her anniversary date in March 2016, Claimant should have been promoted to Deputy City Attorney IV, Step F, but she was not, since she had never even been promoted to the Deputy City Attorney IV position. (She only received her small anniversary step, which is virtually automatic.)

⁵Claimant's original prescription for an ergonomic chair and request for an evaluation for an ergonomic work station was in early 2011.

Instead, Claimant was stuck in the Deputy City Attorney III, Step G, position, where she had been since March 23, 2007. This failure to promote Claimant was a direct result of her sex and physical disability. Claimant alleges on information and belief that male, non-disabled attorneys with less experience, who were performing substantially similar or even less complex and less demanding work, were promoted to ranks of Deputy City Attorney IV, Step F, or higher.

In March 2016, Claimant began to have a different medical problem. She had been having extremely heavy menstrual periods for years, to the point where she had become anemic in 2012, and underwent an endometrial biopsy, after which she was diagnosed as having a fibroid uterus. The condition worsened, and she saw her gynecologist (Reza Askari, M.D.) on Friday, March 11, 2016. Claimant's hemoglobin was dangerously low because she was bleeding so much, and Dr. Askari admitted Claimant to the hospital that day, and she began taking FMLA/CFRA leave on that day – March 11, 2016. Claimant was given four units of whole blood, and was kept in the hospital over the weekend. She was released on Monday, March 14, 2016. On Thursday, March 17, 2016, Claimant began hemorrhaging and was rushed to the hospital. On March 18, 2016, Claimant underwent an emergency hysterectomy at Providence Little Company of Mary Medical Center in San Pedro. Before she went into surgery, Claimant contacted Respondent BRENTÉ, Cristina Sarabia, and Wanda Hudson, and advised all of them that she was having emergency surgery, and would need to take FMLA/CFRA leave for an unknown amount of time. Claimant also emailed Kellie Tran (Payroll and Special Funds Administrator) and told her she was having an emergency hysterectomy, and that she had already notified Respondent BRENTÉ. Kellie Tran emailed Cristina Sarabia and Wanda Hudson with the information the same day.

On March 24, 2016, Cristina Sarabia, Human Resources Director, sent Claimant a memo, advising her that her FMLA/CFRA leave was approved from March 18, 2016 through a date not yet determined. Cristina Sarabia also stated in the March 24, 2016 memo: "During your leave, the Payroll Section of the Los Angeles CITY ATTORNEY'S Office will input the appropriate payroll codes into our office's payroll system (D-Time)."

On April 26, 2016, Claimant's physician completed a medical certification in which he stated that Claimant would not be able to return to work until May 14, 2016, but that she was able to return to "limited work from home" as of April 18, 2016. On or about April 30, 2016, Claimant's physician twice faxed the Certification of Health Care Provider to Wanda Hudson of the Human Resources Department. Despite that, and despite the written assurances in Cristina Sarabia's March 24, 2016 memo, on May 1, 2016, while Claimant was home recovering from surgery, Wanda Hudson sent Claimant an email telling her she was being removed from payroll, effective May 2, 2016. Claimant had a substantial amount of accrued sick leave at this time, which Wanda Hudson knew. The May 1, 2016 email from Wanda Hudson caused added stress, which Claimant alleges contributed to the various physical problems she was having.

Unfortunately, Claimant's problems relating to her hysterectomy were far from over. She experienced an abrupt and extremely severe menopause. Also around this time, she developed severe hypothyroidism, most likely caused by an auto-immune disorder. Claimant became exhausted

and developed rashes and itchiness on her extremities. She was also damp and sweaty on her entire body all the time, which greatly delayed the healing of her incision and caused her to develop a postoperative wound infection. Claimant also had memory loss, difficulty concentrating, and was unable to think or reason at her normal level. She also began requiring about 16 hours of sleep per night. Although Claimant had planned to return to work on May 16, 2016, at least part-time, she was unable to because of the panoply of medical issues she was experiencing. Claimant's FMLA/CFRA leave was therefore continued from May 16, 2016 through June 5, 2016.

Arranging for this FMLA/CFRA leave was an ordeal, because Wanda Hudson repeatedly requested more detailed medical information (to which EMPLOYER Respondents were not entitled) from Claimant's doctor, and threatened Claimant that if she did not provide further medical details, she would be classified as "AWOL." Claimant's doctor had sent a letter dated May 24, 2016, stating that Claimant was able to work from home for up to six hours per day, and that she could return to work on June 5, 2016. As a result of Wanda Hudson's haranguing and threats, on May 26, 2016, Claimant's physician wrote another letter, in which he stated:

Elizabeth Greenwood is unable to commute to and from the workplace. She is able to work from home for up to six hours a day. As she heals she is able to go out for short outings, but she is unable to be in an office environment for an extended period of time. This restriction is currently until June 5, 2016 and will be reviewed with Ms. Greenwood to see if further restrictions are necessary to maintain and improve her health as she recovers.

Claimant finally returned to work at the office on June 6, 2016. Claimant had voluntarily been doing some work from home starting in mid-April 2016, but was not paid for this time.⁶

When Claimant returned to work at the office on June 6, 2016, she thought that surely by this time, her office would be set up with the new ergonomic chair and the ergonomic equipment which the Occupational Safety and Health Division had recommended four months earlier, in February 2016. Unfortunately, even though Claimant had submitted her most recent request for an ergonomic chair and another for an ergonomic analysis of her office on January 5, 2016, neither the chair nor any of the other equipment had arrived. Therefore, in July 2016, Claimant emailed Wanda Hudson in the Human Resources Department about the fact that five months had passed since she had requested the ergonomic chair and an ergonomic analysis of her office, and she had still not received any of

⁶Although EMPLOYER Respondents had authorized Claimant to work from home three hours per day from May 3, 2016 through May 14, 2016, Respondent BRENTE never assigned Claimant any work during this period. However, Claimant's secretary would call from time to time and advise Claimant of deadlines and due dates on Claimant's cases (which had not been re-assigned during Claimant's FMLA leave), and Claimant would prepare whatever documents or take whatever action was required to prevent the case from being compromised.

her ergonomic furnishings or equipment. About a week later, several boxes arrived in Claimant's office, but no one ever arrived to set up or install the items. According to the February 16, 2016 report from Daniela Zaccaro, Ergonomist with the Occupational Safety and Health Division, and the February 16, 2016 email which Daniela Zaccaro sent to Respondent BRENTÉ, the requesting department supervisor (Respondent BRENTÉ) should have made arrangements for the equipment to be set up and installed, but he never did so. He did not even manage to get anyone to open the boxes to inventory what had arrived.

Claimant spoke repeatedly with Respondent BRENTÉ about her back pain and about the symptoms she was having relating to her abrupt menopause, her hormone deficiency, her auto-immune disorder⁷, and her hypothyroidism, including having difficulty thinking and concentrating. Claimant described to Respondent BRENTÉ the things she was doing to try to cope, and kept him updated on her various doctor visits and diagnoses. When she had to be out of the office for medical procedures and appointments, she kept Respondent BRENTÉ and other staff updated regarding due dates, deadlines, etc. on the cases she was assigned. These conversations occurred from July 2016 through February 2017.

From July 2016 through February 2017, Claimant complained repeatedly to Respondent BRENTÉ about her lumbar spine pain, and about the fact that her ergonomic equipment and furniture were still in boxes in her office (assuming that is actually what the boxes contained). As far as Claimant is aware, Respondent BRENTÉ did nothing to even arrange for the items to be un-boxed so someone could inventory them – let alone arrange to get them set up and installed.

Because of the complete failure by EMPLOYER Respondents to accommodate Claimant's physical disability, her pain became worse and worse. She was forced to take 34 hours of sick leave in October 2016, then 50 hours of sick leave in November 2016, then 134 hours of sick leave in January 2017. In January 2017, Claimant was prescribed steroids, Norco, Flexeril, Ketorolac injections, Tramadol injections, and a Lidocaine patch for her back pain. Despite all these medications, Claimant was experiencing constant back pain, and was still attempting to deal with the various extreme menopause symptoms (extreme hormone imbalances) she was having. On January 17, 2017, Dr. Proano gave Claimant a prescription for a stand-up desk. Later that day, Claimant gave this prescription to Wanda Hudson in the Human Resources Department and to someone in the Occupational Safety and Health Division of the City Personnel Department.

On January 18, 2017 and again on February 1, 2017, Claimant had selective nerve root blocks at the L5 level and a lumbar epidural steroid injection at the L5-S1 level. In addition to the severe back pain, Claimant was still suffering from the effects of the emergency hysterectomy and abrupt entry

⁷Around this time, Claimant was diagnosed as having an unspecified auto-immune disorder. She spent about a year trying to get a formal diagnosis concerning which auto-immune disorder she had. She saw an endocrinologist and submitted to numerous tests, but the auto-immune disorder was never formally specified.

into menopause causing an extreme hormone imbalance, as well as the auto-immune disorder and hypothyroidism. Chief among the side effects was the need for Claimant to sleep about 16 hours per night.

Claimant sent an email to Daniela Zaccaro, Ergonomist, Personnel Department, Occupational Safety and Health Division, and they set up a few appointments to meet, but on each of the appointment days Claimant was unable to come to work, because of both the excruciating pain in her lower back, and because of the hormone deficiencies she was dealing with, and which her doctors were still attempting to stabilize.

On January 22, 2017, Claimant received a change (**not** a promotion) from Deputy City Attorney III, Step G, to Deputy City Attorney III, Step 13, in order to convert to the new salary grade system.

On her anniversary date in March 2017, Claimant should have been promoted to Deputy City Attorney IV, Step 10, but she was not, since she had never even been promoted to the Deputy City Attorney IV position. Instead, she received only a small bump from Deputy City Attorney III, Step 13, to Deputy City Attorney III, Step 14. This failure to promote Claimant was a direct result of her sex, her physical disabilities, for taking FMLA/CFRA leave in 2016, and for complaining about this discrimination to Respondent BRENTE and to persons in the Human Resources Department. Claimant complained, among other things, that a male employee with physical disabilities comparable to hers would not be treated so callously. Claimant alleges on information and belief that male, non-disabled attorneys with less experience, who were performing substantially similar or even less complex and less demanding work, were promoted to ranks of Deputy City Attorney IV, Step 10, or higher.

In March 2017, as a result of the continued refusal of EMPLOYER Respondents to accommodate Claimant's physical disability, and the exacerbation which was caused by that continued refusal, Claimant was forced to take 24 hours of vacation and 16 hours of sick leave. In April 2017 she was forced to take 46 hours of sick leave. In May 2017 she was forced to take 99 hours of sick leave. Claimant complained to persons in the Human Resources Department that she was being discriminated against based on her sex and physical disabilities by being forced to exhaust the vacation and sick leave which she had worked for years to accrue, rather than being provided with the reasonable accommodations which would enable her to work. Claimant asserted that a male employee with disabilities comparable to her disabilities would not be treated so callously as she was being treated.

On June 12, 2017, Respondent BRENTE sent a memorandum to Human Resources, describing the essential job functions of deputy city attorneys working in the Police Litigation Unit (which is where Claimant had been assigned since June 2013). The essential job duties included functions which required a substantial amount of sitting (or standing) at a desk (although no time estimate was provided), and which also required travelling to court and to depositions, carrying, wheeling, lifting, and maneuvering boxes of trial documents, binders, and exhibits, "which are often voluminous." These essential job functions were not consistent with what the job had consisted of in the past, since

clerks, rather than attorneys, took boxes of trial documents, binders, and exhibits to court and back, and did the “carrying, wheeling, lifting, and maneuvering.” (Since Claimant’s secretary had retired in early 2017, and Claimant was not even assigned a new secretary, the only assistance she received came from the clerks.) This job description with additional “essential job duties” appears to have been designed to make Claimant unqualified for her job, and to punish her for repeatedly requesting that she be treated fairly with regard to promotions, and that she be provided with the reasonable accommodations to which she was legally entitled.

On June 14, 2017, Claimant had to miss some work to undergo more lumbar facet injections in her lower back, bilaterally at the L4-S1 level. A week later, on June 21, 2017, Respondent BRENTE began criticizing Claimant for missing work and not working from 8:30 a.m. to 5:00 p.m. Even though Claimant had told Respondent BRENTE about her medical issues in detail (which legally she was not required to do), and had explained to him the reasons why she had to take time off work for so many medical appointments, and had to sleep 12 to 16 hours per night, making it very difficult to arrive at work by 8:30 a.m. and to work for eight hours per day, Respondent BRENTE criticized Claimant for the various issues which he knew were beyond her control because of her medical disabilities. (There was not even any business reason which required Claimant to be physically at the office from 8:30 a.m. to 5:00 p.m.) As a supervisor, and as an attorney, Respondent BRENTE surely knew he was required to reasonably accommodate Claimant’s disabilities, and that he should certainly not be disciplining her because of her disabilities.

After the June 21, 2017 meeting with Respondent BRENTE, Claimant submitted a formal request for reasonable accommodations to the Human Resources Department. The meeting regarding Claimant’s requested reasonable accommodations took place on July 11, 2017, with David Trujillo (HR Analyst) and Margaret Shikibu, both of the Human Resources Department. The accommodations Claimant was requesting related to her extreme menopause-related issues (extreme hormone imbalances), hypothyroidism, and un-categorized auto-immune disorder, which were requiring her to sleep 12 to 16 hours per night, preventing her from getting to work at 8:30 a.m. on some days, and preventing her from working eight hours per day on some days.

On July 11, 2017, the Human Resources Department granted Claimant a so-called temporary accommodation by changing her schedule to 10:00 a.m. to 6:00 p.m. This was not sufficient, however, since Claimant had to sleep about 12 to 16 hours per night, and work eight hours per day, which adds up to 20 to 24 hours per day, leaving Claimant no time to commute back and forth from San Pedro to downtown, no time to get ready in the morning and eat breakfast, and no time to eat a real dinner in the evening. The so-called accommodation meant that in order to get eight hours in at work, Claimant was forced to work through her lunch break, eating at her desk. While Claimant would normally have taken the opportunity to walk around and stretch during her lunch break, instead, she was forced to remain in place at her desk. Claimant was also forced to work in her office which still did not have the ergonomic improvements which had been requested first in 2011, and then again in January 2016, and some of which had been in unopened boxes in her office since July 2016 (at least, Claimant assumed that is what was in the boxes).

Claimant explained all this to Human Resources Department personnel, but her words fell on deaf ears. From July 23 through August 5, 2017, Claimant was forced to use 82 hours of sick leave and 38.5 hours of vacation as a direct result of the refusal of EMPLOYER Respondents to accommodate her disabilities. Claimant again complained to persons in the Human Resources Department that she was being discriminated against based on her sex and physical disabilities by being forced to exhaust the vacation and sick leave which she had worked for years to accrue, rather than being provided with the reasonable accommodations which would enable her to work. Claimant asserted that a male employee with physical disabilities comparable to hers would not be treated so callously as she was being treated.

While Claimant was on sick leave, Respondent BRENTÉ failed to assign another attorney to cover Claimant's cases. As a result, some filing deadlines were missed. When Claimant was informed of filing deadlines, she would download the necessary documents from PACER and draft motions and other documents from home while she was using her accrued sick leave. (Claimant sometimes did not know about filing deadlines, however, since she had still not been assigned a secretary ever since her secretary retired in early 2017.)

The so-called temporary accommodation expired on July 28, 2017, because EMPLOYER Respondents required that Claimant submit documentation regarding her auto-immune disorder and hypothyroidism from her doctor (and in fact repeatedly and illegally requested detailed medical information to which EMPLOYER Respondents were not entitled), and Claimant could not get an appointment with the endocrinologist who was on Respondent CITY's health insurance plan until August 2017. In August 2017, Claimant's hormone replacement medication was doubled. Although Claimant was still suffering from other symptoms of extreme hormone deficiency, as well as with the symptoms resulting from her hypothyroidism and her auto-immune disorder, the doubling of her hormone replacement medication allowed her to decrease her sleep time from 12 to 16 hours per night, down to 10 hours per night. While this was still a long time to sleep, it was a definite improvement.

By August 2017, it had been over six years since Claimant first started requesting an ergonomic evaluation, one and one-half years since it was finally performed, over a year since the boxes, presumably containing ergonomic items, were delivered to her office (but never even opened), and seven months since Claimant's doctor prescribed a stand-up desk. Claimant had spent hours talking to and emailing with the Human Resources Department, the Occupational Safety and Health Division of Respondent CITY's Personnel Department, and her supervisor, Respondent BRENTÉ, but absolutely nothing had been accomplished as far as any reasonable accommodations for Claimant's lumbar disability. The pain in her back was increasing to the point where she was in constant pain, had frequent muscle spasms, and was often unable to drive herself to and from work. She was taking so much pain medication it was adding to the fatigue she was already battling, and made it even more difficult for her to concentrate at work. Therefore, on August 14, 2017, Claimant submitted a workers' compensation Employee's Report of Injury/Illness to the Human Resources Department within Respondent CITY ATTORNEY'S OFFICE and went out on sick leave.

From August 14 through November 2017, Claimant constantly asked her supervisor, Respondent BRENTIE, about her workers' compensation claim, to see when she would receive information regarding her workers' compensation medical leave, and Respondent BRENTIE repeatedly told her to continue using her accrued sick leave whenever she was in too much pain to come to work. He also told Claimant that Human Resources told him a workers' compensation claim had not yet been opened for her, even though she had submitted her claim on August 14. Claimant had no reason not to believe him at the time.

Even though she was suffering extreme back pain, from September 26 through 29, 2017, Claimant conducted the trial in *Porter v. City of Los Angeles*, in which she prevailed. (Claimant was also very ill with the flu and was running a fever on September 27, but continued with the trial notwithstanding how ill she felt, because she feared she would be disciplined by her supervisor if she requested a one-day continuance.) Claimant had to have a friend drive her back and forth to court, because driving greatly exacerbated her back pain, and because she also needed the commute time for sleeping.

On October 3, 2017, shortly after completing the trial, Claimant saw Dr. Proano again, and had additional medial nerve branch blocks performed on her lumbar spine. This procedure was repeated on November 1, 2017.

Also in approximately October 2017, Respondent BRENTIE asked Claimant why others in the Police Litigation Unit were able to get ergonomic equipment with ease, and she had so much trouble. (For example, a male attorney named Geoff Plowden had requested a reasonable accommodation, which he had promptly received.) This was a harassing comment, since ergonomic equipment had been delivered to Claimant's office in July 2016 and, as the requesting department supervisor, Respondent BRENTIE was the very person who should have made arrangements for the equipment to be set up and installed. Incredibly, Respondent BRENTIE suggested to Claimant that she install the ergonomic equipment herself which, among other things, would have required drilling a large hole in the desk to attach the monitor arm. Respondent BRENTIE seemed to take enjoyment from the fact that Claimant was enduring intense pain, while the ergonomic equipment sat in Claimant's office, still in boxes, taunting her. Claimant told Respondent BRENTIE he was harassing and discriminating against her based on her sex and physical disabilities by forcing her to exhaust the vacation and sick leave which she had worked for years to accrue, since obviously it was possible for reasonable accommodations to be provided to male employees in the department – just not to females.

Because Respondent BRENTIE never assigned anyone to cover Claimant's cases when she was out on extended sick leave, Claimant returned to work as much as she could, on days the pain was not completely debilitating. She was unable to drive, however, so she could only go to work when she could get a driver, and could only work for a few hours at a time. As a result, she was required to take 766 hours of vacation, 9 hours of 100% sick leave, and 27 hours of 75% sick leave during October 2017.

Despite the fact that: ii) Claimant had been on FMLA/CFRA leave from approximately March 14

through June 5, 2010 for her spinal surgery, iii) Claimant had been on FMLA/CFRA leave from March 11, 2016 through June 5, 2016 for her endometriosis and fibroid uterus, and then for the emergency hysterectomy and the complications relating to that surgery, iii) Claimant had communicated constantly with Respondent BRENTÉ regarding her various physical disabilities, and had answered many more questions regarding the details of her physical disabilities and serious health conditions than she was legally required to, iv) Claimant had been attempting to get ergonomic furniture which would at least lessen her back pain since early 2011, v) Respondent BRENTÉ was the person responsible for having the ergonomic items installed but the items had been sitting in boxes in Claimant's office since July 2016, vi) Claimant had submitted a formal request for reasonable accommodations to Human Resources and met with Human Resources about this, and vii) Claimant had filed a workers' compensation claim on August 14, 2017, on November 7, 2017, Respondent BRENTÉ saw fit to issue a formal Notice to Correct Deficiencies to Claimant, which dwelled solely on difficulties she was having at work due to her physical disabilities.⁸

On November 8, 2017, when Claimant was literally at the doctor for the purpose of obtaining a note which Vivienne Swanigan (Managing Assistant City Attorney and Supervising Attorney of the Labor Relations Division) had said was required, Claimant received a call, ordering her back to the office to receive her Notice to Correct Deficiencies. The meeting was attended by Respondent BRENTÉ, Claimant, union representative Oscar Winslow, and a woman (name unknown) from the Personnel or Human Resources Department. During this meeting, Claimant described in detail all the health issues which were making it difficult for her to work regular hours, including the health issues she was having related to her severe menopause (severe hormone imbalance), her auto-immune disorder, her hypothyroidism, and her lumbar spine disability. Claimant explained that much of the time when she was late to work, it was because she required so much sleep because of the extreme menopause-related issues (extreme hormone imbalances), hypothyroidism, and un-categorized auto-immune disorder, or because she was groggy due to having been forced to take pain medication for her lumbar spine disability. She again requested reasonable accommodations for all her physical disabilities. Rather than discuss what reasonable accommodations might be possible, Respondent BRENTÉ said to Claimant, right in front of Oscar Winslow and the woman from Personnel, "We all know the workers' comp claim is bullshit." This was an accusation of Claimant committing an illegal act (workers' compensation fraud). Claimant pointed out that the Notice to Correct Deficiencies dwelled solely on difficulties she was having at work due to her physical disabilities, and for which she had been requesting reasonable accommodations for seven years, and complained that this constituted harassment and discrimination based on her physical disabilities. Claimant also complained she was being discriminated against and harassed based on her sex because she did not believe male employees were being disciplined for having physical disabilities, and of course male employees did not have menopause issues. Claimant also complained she was being punished for using accrued sick leave, which she only had to use because Respondents refused to provide the

⁸According to the Notice to Correct, Respondent BRENTÉ accused Claimant of having unsatisfactory job performance from June 21, 2017 through September 29, 2017 – the very day Claimant received a favorable jury verdict in *Porter v. City of Los Angeles*.

reasonable accommodations she required.

At this point, Claimant became suspicious regarding the lack of any action on her workers' compensation claim, so she began to investigate. On November 8, 2017, she finally got in contact with Lisa Herron, ACME Claims Adjuster, who told Claimant her workers' compensation claim had been denied because Respondent BRENTE told Ms. Herron Claimant was not at work, and he did not know how to reach her! This was not true, since Respondent BRENTE knew how to reach Claimant by phone, text message, or email.

By November 26, 2017, Claimant was in such severe back pain that she had to use accrued vacation and sick leave through January 20, 2018. Claimant used various types of accrued leave during this period. While Claimant was on sick leave, Respondent BRENTE again failed to assign sufficient personnel to cover Claimant's cases. Claimant complained to David Trujillo that she was being discriminated against based on her sex and physical disabilities by being forced to exhaust the vacation and sick leave which she had worked for years to accrue. Claimant asserted that a male employee with physical disabilities comparable to hers would not be treated so callously as she was being treated. Claimant also complained to David Trujillo that Respondent BRENTE was harassing and discriminating against her by failing to assign sufficient personnel to cover her cases while she was on sick leave, which caused deadlines and due dates to be missed, for which she was being blamed. Claimant did not work voluntarily from home during this period of vacation and sick leave.⁹

On December 7, 2017, Claimant finally learned from David Trujillo (of the Human Resources Department) that she could reopen her workers' compensation claim by completing and returning some medical release forms, and submitting to an examination by a Qualified Medical Examiner. She returned the signed forms and began arranging for the examination.

On December 13 and 20, 2017, Claimant attempted to undergo a radiofrequency ablation procedure and a facet rhizotomy, but had a bad reaction to the anesthesia, so the procedures could not be completed on those dates. As a result of her continuing back pain, on December 20, 2017, Claimant's doctor wrote a note stating Claimant was unable to work from November 16, 2017 through January 15, 2018. She was finally able to have the radiofrequency ablation of the right L3-5 medial branch nerves on January 22, 2018.

Claimant had hoped to return to work on January 21, 2018, but was unfortunately unable to return to working full-time on that date. She therefore took intermittent FMLA/CFRA leave from January 21, 2018 through February 11, 2018. Claimant used accrued vacation and sick leave during this period. Once again, Respondent BRENTE failed to assign sufficient personnel to cover Claimant's cases, and once again Claimant complained to Respondent BRENTE that this constituted

⁹Claimant was afraid she would be criticized for voluntarily working during her leave since, on November 7, 2017, Respondent BRENTE had issued Claimant a formal Notice to Correct Deficiencies which dwelled solely on difficulties she was having at work due to her physical disabilities.

discrimination and harassment based on her physical disabilities and sex, and for taking FMLA/CFRA leave.

On January 29, 2018, Claimant had her annual medical examination at HealthCare Partners. Among other things, she was diagnosed as having anxiety disorder, depression, hypothyroidism, insomnia, sciatica, vitamin D deficiency, difficulty concentrating, elevated blood pressure, elevated liver enzymes, greater trochanteric bursitis, menopause syndrome, muscle spasms, and neurodermatitis. She was taking numerous prescription medications for these conditions. Claimant was also treating with her gynecologist (who was not part of HealthCare Partners), and was being prescribed hormone replacement and other medications related to her menopause syndrome by the gynecologist.

On February 7, 2018, Claimant's physician (Dr. Proano) wrote a note indicating she was able to return to work on February 12, 2018, but only to "light" work duties, and only with the following restrictions/accommodations: "no bending, stooping, lifting, sit no more than 1 hour, standing no more than 1 hour."

Claimant did return to work, full-time, on February 12, 2018. On that day, she submitted the February 7, 2018 note from Dr. Proano regarding her restrictions, along with the three ergonomic prescriptions from Dr. Proano – one for an ergonomic keyboard drawer, one for an ergonomic chair, and one for a stand-up desk – to the Human Resources Department. The Human Resources Department told Claimant she needed to have yet another ergonomics evaluation. It had been two years since Claimant had the first ergonomic evaluation, when the Occupational Safety and Health Division had determined that she needed a chair with a tailbone cut-out, a document holder, a monitor arm, and an adjustable footstool. (Those items had never been delivered, or were still in boxes in Claimant's office, needing to be un-boxed and installed.) It had also been over two years since Claimant's doctor initially prescribed an ergonomic chair, and one year since her doctor had initially prescribed a stand-up desk.

Amazingly, David Trujillo told Claimant it could be months before they would be able to get her the ergonomic evaluation. Claimant complained to David Trujillo that there were still boxes of ergonomic equipment in her office which had never been opened and installed. She told David Trujillo that her back would start aching within an hour of her sitting at her desk, and she was afraid sitting in that chair would seriously exacerbate her spinal disability. David Trujillo did not seem interested in getting the ergonomic equipment installed, and said they might have to put Claimant on administrative leave until they could conduct yet another ergonomic evaluation and get the new equipment in place.

On February 14, 2018, in what can only be viewed as an outright refusal to accommodate Claimant's disability, the Human Resources Department sent Claimant an email stating that she would have to completely re-start the ergonomic evaluation process. Claimant reminded Human Resources that she had originally started requesting an ergonomic evaluation process in early 2011, the ergonomic evaluation had finally been performed on February 1, 2016, and, although the boxed ergonomic items were finally delivered to her office in July 2016, none of the equipment had been set up.

Also on February 14, 2018, Claimant met with David Trujillo to discuss accommodation of the work restrictions which were listed on the February 7, 2018 note from her doctor (no bending, stooping, or lifting; no sitting for more than an hour at a time and no standing for more than an hour at a time). During this meeting, Claimant complained to David Trujillo that Respondent BRENTE and EMPLOYER Respondents were harassing and discriminating against her because of taking FMLA/CFRA leave, and based on her physical disabilities and her sex, for the same reasons as discussed above. On February 23, 2018, David Trujillo sent an email in which he stated that Claimant's request was with "Personnel to see if they had equipment readily available. If not available, she would be placed on the list for them to order."

On February 27, 2018, Claimant drove to Pasadena, where she conducted a six-hour deposition. The combination of driving to Pasadena, sitting for six hours, then driving back to San Pedro greatly exacerbated Claimant's back injury. She could not return to work because her ergonomic furniture and equipment had still not been installed. She attempted to work from home (from February 28, 2018 through March 8, 2018), but this reasonable accommodation was later denied her.

Claimant saw Dr. Askari again on March 7, 2018, and Dr. Askari noted complications of menopause, the presence of thyroid issues, and the presence of an unknown auto-immune disorder.

On March 8, 2018, Respondent BRENTE sent Claimant an email in which he admonished her for not keeping up with her work while she was in excruciating pain and trying to work from home. Since it was clear that EMPLOYER Respondents were not going to provide Claimant with ergonomic furnishings and equipment, and since the reasonable accommodation of working from home was being denied her, Claimant gave up trying to work from home and, on March 12, 2018, notified Human Resources of her need to take FMLA/CFRA leave, beginning (retroactively) on March 8, 2018, and ending on April 9, 2018.

The very next day (on March 13, 2018), her anniversary date step was denied/withheld for one year – something which is virtually unheard of. Since she should have already been a Deputy City Attorney IV, Step 10, at this point, she should have been promoted to Deputy City Attorney IV, Step 11, but was instead trapped at the Deputy City Attorney III, Step 14, level. This refusal to promote Claimant was a direct result of her sex, her physical disabilities, her repeated requests for accommodation, her repeated requests for an interactive dialogue/process, and for her taking FMLA/CFRA leave. Claimant alleges on information and belief that male, non-disabled attorneys with less experience who were performing substantially similar or even less complex and less demanding work, were promoted to ranks of Deputy City Attorney IV, Step 11, or higher.

Also on March 13, 2018, Claimant was examined by Qualified Medical Examiner Leon Brooks, M.D. After reviewing medical records and examining Claimant, Dr. Brooks determined that Claimant was "temporarily totally disabled." He also ordered that Claimant obtain an MRI of her spine, and electrodiagnostic studies.

On March 14, 2018, Claimant's request for FMLA/CFRA leave was approved for the period March

8 through April 9, 2018. Claimant was required to use approximately 168 hours of accrued (75%) sick leave during this period. Claimant again complained to David Trujillo that she was being discriminated against for taking FMLA/CFRA leave and also because of her sex and physical disabilities, by being forced to exhaust the vacation and sick leave which she had worked for years to accrue. Claimant asserted that a male employee with physical disabilities comparable to hers would not be treated so callously as she was being treated.

Claimant had hoped to return to work on April 10, 2018, as had been planned, but was physically unable to do so. (She attended a LACERS meeting, but was in so much pain afterward, she had to go home.) Claimant missed work on April 11, 2018 due to a death in the family. She returned to work on April 13, 2018. On April 17, 2018, Claimant obtained the MRI which had been ordered by Dr. Brooks (QME). By April 25, 2018, Claimant was in so much pain she could not work. She therefore requested to take a FMLA/CFRA leave of absence, but months went by without her receiving a response.¹⁰ On May 8, 2018, Claimant obtained the electrodiagnostic studies which had been ordered by Dr. Brooks.

On June 8, 2018, David Trujillo told Claimant that her ergonomic equipment (which had first been prescribed by Claimant's doctor seven years earlier) had been "ordered," and that Human Resources was awaiting shipment. David Trujillo gave no indication regarding when the equipment was expected to arrive.

Amazingly, the very next day (June 9, 2018), Claimant's health benefits were terminated without notice, without a response to her April 25, 2018 request to take FMLA/CFRA leave, and without the ergonomic equipment being installed in her office, which would have allowed her to return to work. Claimant received no notice of the termination of her health insurance benefits from EMPLOYER Respondents. Rather, she learned of the termination of benefits from one of her medical providers. EMPLOYER Respondents terminated the health insurance of Claimant, who they knew had numerous health issues, without even giving her notice.

Then on June 12, 2018, even though Claimant had filed a workers' compensation claim on August 14, 2017, and had been declared "temporarily totally disabled" by Dr. Brooks (QME) on March 13, 2018, David Trujillo notified Claimant that she was out of vacation and sick leave and had no more FMLA/CFRA time, so she would need to apply for short-term disability insurance. On June 13, 2018, Claimant asked David Trujillo to send her the paperwork which was necessary to apply for disability insurance. The application paperwork was provided, and Claimant applied for disability insurance on June 13, 2018 with Standard Insurance Company (under the City of Los Angeles group policy). Standard Insurance indicated it would respond by August 3, 2018.

¹⁰Eventually, on September 21, 2018, Human Resources sent a letter stating that Claimant was being granted a "personal medical leave of absence . . . as a reasonable accommodation for the continuous period of April 25, 2018 through October 16, 2018." Payroll records indicate this leave was classified as FMLA/CFRA leave from April 25, 2018 through June 9, 2018.

On July 10, 2018, Dr. Brooks (the QME) issued a supplemental report in which he stated the following findings:

- Claimant should be precluded from repeated bending and stooping, lifting of weight in excess of 15 pounds, prolonged sitting or prolonged standing.
- Claimant will not be able to return back to her prior position in view of the physical requirements. He therefore considers her to be a qualified injured worker.
- He believes that 60% of Claimant's present impairment is related to her present injury of August 14, 2017 and 40% is related to her condition prior to the specific injury of August 14, 2017.
- Claimant remains with 8% impairment of the whole person per DRE lumbar category 2 of Table 15-3 page 383 of the AMA Guidelines Fifth Edition.

On July 13, 2018, David Trujillo sent Claimant an email in which he wrote:

Your department has changed your status to Part Time Intermittent and that is what has cancelled your benefits.

This status automatically cancels benefits by the payroll file provided to our TPA.

Amazingly, although EMPLOYER Respondents had removed Claimant from payroll and terminated her health insurance benefits on June 9, 2018, they did not bother to tell Claimant until over a month later, on July 13, 2018.

When Claimant did not hear anything by August 3, 2018, she contacted Standard Insurance Company and was told her claim was "on hold" because Standard Insurance was waiting for information from EMPLOYER Respondents. Standard Insurance said it had sent Respondent CITY a follow-up, but had still not heard back. Therefore, on August 3, 2018, Claimant wrote to David Trujillo, asking that he inquire into the status of her disability insurance application.

Claimant's disability insurance claim was eventually processed, and was denied by Standard Insurance on September 17, 2018; she is currently in the process of appealing. No progress was made on Claimant's workers' compensation claim during this time.

Claimant's request for a medical leave of absence took **almost five months** – from April 25, 2018 to September 21, 2018 – to be granted, leaving Claimant in fear of her employment being terminated due to her being unable to work as a result of her disabilities. Eventually, on September 21, 2018, Human Resources sent a letter stating that Claimant was being granted a "personal medical leave of absence . . . as a reasonable accommodation for the continuous period of April 25, 2018 through

October 16, 2018.” Payroll records indicate this leave was classified as FMLA/CFRA leave from April 25, 2018 through June 9, 2018, during which time 64 hours of Claimant’s accrued vacation and 437 hours of Claimant’s accrued sick leave were used. The remainder of the leave time was unpaid. To term this a “personal medical leave of absence . . . as a reasonable accommodation” is inaccurate, since the leave was FMLA/CFRA leave from April 25, 2018 through June 9, 2018, and after that it was unpaid leave without health insurance. This was therefore not a “reasonable accommodation.” A true accommodation would have been to actually install the ergonomic equipment and furnishings which Claimant required, so she could be working, getting paid, and receiving health insurance and other benefits of employment.

On October 15, 2018, Claimant’s attorneys sent a 35-page letter to Zna Portlock Houston, Special Counsel Personnel Standards and Employee Engagement (Office of the Los Angeles City Attorney), in which they requested a response by November 1, 2018. **To this date, no response has been provided.**

On October 16, 2018, Claimant submitted a complaint to EMPLOYER Respondents’ Office of Discrimination Complaint Resolution. In that complaint, Claimant alleged discrimination based on disability and sex, and for taking FMLA/CFRA leave, and further alleged she had been subjected to a variety of harassing and discriminatory treatment, including several adverse employment actions.

On October 16, 2018, Claimant’s physician wrote a note stating that she could return to work with the following restrictions/accommodations: “no bending, stooping, standing for more than 1 hour. Stand up desk and ergonomic chair [required].”

Claimant returned to work on October 17, 2018. When she arrived at her office, she discovered that her desk had been set up with two monitors and a soft desk pad for standing (which were both things she needed), but that the electric high-adjustable desk and electric high-adjustable chair which she understood had been ordered, had still not arrived. Claimant had previously submitted a note which Dr. Proano had written on February 7, 2018, indicating she could only perform “light” work duties, and only with the following restrictions/accommodations: “no bending, stooping, lifting, sit no more than 1 hour, standing no more than 1 hour.” [Emphasis added.] EMPLOYER Respondents were aware of this because, on February 14, 2018, Claimant met with David Trujillo to discuss accommodation of the work restrictions which were identified in the February 7, 2018 note from her doctor (no bending, stooping, or lifting; no sitting for more than an hour at a time and no standing for more than an hour at a time). Then, on July 10, 2018, Dr. Brooks (EMPLOYER Respondents’ designated QME) stated: “Claimant should be precluded from repeated bending and stooping, lifting of weight in excess of 15 pounds, prolonged sitting or prolonged standing.” EMPLOYER Respondents were therefore well aware that Claimant was unable to raise and lower a stand-up desk and/or stand-up chair manually several times per day, and had a duty to provide Claimant with the electric high-adjustable desk and electric high-adjustable chair which she required in order to be able to perform her job.

On October 17, 2018, Claimant managed to work from 9:00 a.m. to 6:30 p.m., despite the severe back pain she was experiencing. On October 18, Claimant again worked a full day— from 9:45 a.m. to 7:00 p.m. On October 19, the pain was so bad when she awoke, she was not able to drive downtown until after she had been up for a while and had taken more pain medication. She therefore worked from 11:45 a.m. to 5:45 p.m.

Unfortunately, as a result of pushing her body, and working without the benefit of the ergonomic equipment she was supposed to have, Claimant experienced excruciating back pain for the next three days, and was unable to report to work on Monday, October 22, 2018. Her attendance was very sporadic the next couple weeks because of the back pain she was suffering due, at least in part, to the lack of ergonomic furnishings and equipment.

Every day Claimant was late to work, or unable to go to work at all, she texted Respondent BRENTE and advised him of her status. Sometimes he responded, but sometimes he did not. Claimant has told Respondent BRENTE she still needs 10 hours of sleep per day. If she has back spasms, she needs to take a pain pill, and take a hot shower. On mornings the pain is so severe that she has to take two pain pills, then she cannot drive. In late October 2018, Claimant explained to Respondent BRENTE that she was unable to obtain a new note from her doctor, because she was still without health insurance.

Claimant worked full days on October 30 and October 31, 2018. On October 30, 2018, Claimant spoke with one of EMPLOYER Respondents' attorneys regarding her workers' compensation claim. He told Claimant no decision had been made by the workers' compensation insurance carrier regarding the claim she had submitted on August 14, 2017. Despite Dr. Brooks' July 10, 2018 findings, Claimant's workers' compensation claim has still not been processed by EMPLOYER Respondents. This means the payroll department has not credited back Claimant's sick leave and vacation accounts. Claimant has also not been paid any money for her workers' compensation claim, and also has not even been paid for working October 30 and 31, 2018.

On Thursday, November 1, 2018, Claimant became extremely ill, with a very high fever, and was diagnosed as probable Viral Meningitis. Claimant's physician (Terry Ishihara, M.D.) wanted to admit Claimant to the hospital, but she declined to go because of being without health insurance. Claimant could not even have blood tests performed because of the lack of health insurance. Dr. Ishihara advised Claimant that she would need to stay in bed for at least a week, and probably longer. On November 1, 2018, Claimant advised both Respondent BRENTE and HR Analyst David Trujillo that she was sick, that she probably had Viral Meningitis, and that her doctor had advised at least a week of bed rest.

On Monday, November 5, 2018, persons from the Police Litigation Unit started emailing Claimant assignments to do at home. Not only was Claimant very ill, but she did not have any of the files she would need in order to do the work she was being assigned anyway. Claimant notified both the Police Litigation Unit and David Trujillo of these facts.

On November 8, 2018, Claimant learned that her health insurance had been reactivated.¹¹ Claimant was still very ill at this time. Her fever was not as high as previously, but she was still suffering from fever, headaches, chills, and severe vertigo. On November 20, Claimant's physician said it could take up to two weeks for her to recover from what, at that point, had been diagnosed as Viral Meningitis. Claimant's physician provided her with a note stating she could not return to work until December 3, 2018.

While Claimant was at the doctor on November 20, she had blood drawn for the purpose of testing for Typhus. On November 27, 2018, Claimant learned she had Typhus (specifically, Typhus Fever Group IgG, IgM). Typhus is a very serious disease, which can be fatal if left untreated. Typhus can cause Viral Meningitis. Although Typhus is highly treatable with antibiotics, Claimant could not go to the hospital or even have blood tests until almost three weeks after her symptoms started, because her health insurance had not yet been re-activated (even though she was eligible for re-activation starting October 27, 2018).

Claimant most likely contracted Typhus while working for EMPLOYER Respondents. Typhus is transmitted by fleas and is believed to have started in the homeless encampments in downtown Los Angeles. There has been a Typhus epidemic in downtown Los Angeles since about September 2018. The county designated a 279-acre area bounded by Third, Seventh, Alameda, and Spring streets as the "Typhus Zone." Claimant's office is only two blocks outside the Typhus Zone.

On November 29, 2018, Claimant sent an email to Respondent BRENTE, copied to David Trujillo, in which she wrote:

Given the fact there is a typhus outbreak in Downtown LA I would like to file a workers' compensation claim. Would you please send me the paperwork.

Thank you very much.

David Trujillo replied that he would have "Nancy send over the paperwork." Claimant submitted a workers' compensation Employee's Report of Injury/Illness to the Human Resources Department within Respondent CITY ATTORNEY'S OFFICE, relating to her Typhus diagnosis, on December 1, 2018. In that document, Claimant wrote:

There is a typhus outbreak in downtown LA. Sometime the week of 10/16/18 while at my office I was bitten by one or more fleas. On November 1, 2018, I became violently ill. On 11/27/18, my primary

¹¹Claimant was eligible for health insurance starting October 27, 2018, but despite Claimant urging EMPLOYER Respondents to hurry and get her insurance re-activated, Claimant's health insurance was not actually re-activated until November 8, 2018.

care physician phoned me and informed me I tested positive for typhus.

Under "What can the City of Los Angeles do to help prevent similar accidents/incidents?" Claimant wrote "Fumigate City Hall East for fleas-immediately. This is a horrible condition."

Claimant did not return to work on December 3, 2018, however, because she was on a planned family vacation through December 10, 2018 plus, as it turned out, she was still ill from the Typhus the entire time, so she spent most of the vacation in bed. Claimant planned to return to work on December 11, 2018, but was unable to return for two reasons: 1) She was still suffering from severe vertigo, dizziness, and disequilibrium which are symptoms of Typhus; and 2) She feared contracting Typhus again, since her office is within the Typhus Zone. (Typhus can be contracted repeatedly, and since Claimant has an auto-immune disorder, she is at increased risk for contracting Typhus. In California, an employee is not required to work under hazardous working conditions which present a serious risk of harm.) Although EMPLOYER Respondents had indicated they had sprayed pesticide in Claimant's personal office, the rest of the building had not been fumigated, so Claimant would still not be protected from Typhus-carrying fleas.

On December 20, 2018, when Claimant learned that Respondent CITY was not planning to fumigate the City Hall East Building, she made a complaint to the California Division of Occupational Safety and Health (DOSH), better known as Cal/OSHA, regarding the Typhus outbreak, and the fact that she contracted Typhus. Claimant has been informed and therefore believes that Cal/OSHA has begun an investigation into her complaint.

Also on December 20, 2018, Claimant saw U.S. HealthWorks Medical Group ("U.S. HealthWorks"), which is the occupational medicine provider designated by EMPLOYER Respondents. The medical provider at U.S. HealthWorks designated Claimant as temporarily totally disabled from December 20 to December 21, 2018, and designated Claimant as temporarily partially disabled from December 21, 2018 through December 28, 2018. On the Injury Status Report, the medical provider wrote: "No Driving." On the Work Status Report, the medical provider wrote: "The patient has been advised not to drive or operate heavy equipment."

Since U.S. HealthWorks was the occupational medicine provider designated by EMPLOYER Respondents, Claimant assumed U.S. HealthWorks would notify EMPLOYER Respondents of her work restriction. (In fact, persons at U.S. HealthWorks told Claimant they would notify EMPLOYER Respondents of Claimant's "temporarily partially disabled" status.) Despite this, just to make sure there was no confusion and that her job was protected, on December 21, 2018, Claimant advised EMPLOYER Respondents of this work restriction. In her December 21, 2018 email to David Trujillo, Claimant wrote:

I went to the City doctor last night. He has put me on modified duty. My limitation is that I am unable to drive because of the vertigo. He said they would send you a copy of his report with the restriction. 1

go back on 12/27/18 for a follow up. Please let me know what else you need from me.

Respondents' response was swift and sure. Respondents immediately (that same day, **only three hours later**) sent Claimant a letter advising her that she was "absent without leave," and threatening to terminate her. The letter came from HR Analyst David Trujillo, who must know employees are not required to work under hazardous working conditions which present a serious risk of harm.

Claimant went to U.S. HealthWorks again on December 27, 2018, and the medical provider extended Claimant's "temporarily partially disabled" status through January 7, 2019. On the Work Status Report, the medical provider wrote: "The patient has been advised not to drive or operate heavy equipment." Claimant emailed the Work Status Report and Injury Status Report to Respondent BRENTÉ and David Trujillo on December 28, 2018. Out of an abundance of caution, Claimant's employment law attorney also emailed this report to Vivienne Swanigan (Managing Assistant City Attorney and Supervising Attorney of the Labor Relations Division) on January 7, 2019, and again on January 10, 2019.

Meanwhile, on December 31, 2018, Vivienne Swanigan sent a letter in which she acknowledged Claimant's medical reports putting her on leave through December 27, 2018, but ignored the Work Status Report and Injury Status Report Claimant had emailed to Respondent BRENTÉ and David Trujillo on December 28, 2018, and threatened Claimant's job by stating Claimant was absent without leave. Also in this letter, Vivienne Swanigan (a 33-year attorney, in a very high position in Respondent CITY ATTORNEY'S OFFICE) denied Respondent CITY ATTORNEY'S OFFICE had a duty to reasonably accommodate Claimant's disability of being unable to drive due to her severe vertigo. Also, rather incredibly, Vivienne Swanigan stated that Respondent CITY ATTORNEY'S OFFICE does not have access to Plaintiff's workers' compensation case records. Claimant had actually submitted her workers' compensation Employee's Report of Injury/Illness to the Human Resources Department within Respondent CITY ATTORNEY'S OFFICE. On the form, Claimant identified her illness as: "Typhus. Headache, fever, chills, stiff neck, rash, vomiting, vertigo, exhaustion."

Claimant again went to U.S. HealthWorks on January 7, 2019, and the medical provider extended Claimant's "temporarily partially disabled" status through January 21, 2019. Again, the restriction was that Claimant was "not to drive or operate heavy machinery." Claimant emailed the Work Status Report and Injury Status Report to HR Analyst David Trujillo on January 8, 2019. Out of an abundance of caution, Claimant's employment law attorney emailed the documents to Vivienne Swanigan on January 8, 2019, and again on January 11, 2019.

Claimant has requested of David Trujillo, and Claimant's attorney has requested of Vivienne Swanigan, that Claimant's disability of not being able to drive because of the vertigo, dizziness, and disequilibrium which were caused by Typhus be reasonable accommodated. EMPLOYER Respondents have a legal duty to reasonably accommodate Claimant's commute-related limitations.

As of this date, Claimant has still not returned to work, because she is still suffering from severe vertigo, dizziness, and disequilibrium and is therefore unable to drive, and because the building where her office is located has still not been fumigated. Additionally, the electric high-adjustable desk and electric high-adjustable chair which Claimant requires in order to be able to work without extreme pain to her lumbar spine have still not been delivered to her office.

Claimant has repeatedly requested that the building where she works (City Hall East) be fumigated before she returns to work. Even though Respondent CITY began fumigating other buildings in October 2018, EMPLOYER Respondents have failed and refused to fumigate City Hall East. Claimant has pointed out that, because of her auto-immune disorder, she is at greater risk than others for re-contracting Typhus, but EMPLOYER Respondents have still failed and refused to fumigate City Hall East.

Claimant's paid sick leave bank should have re-loaded on January 1, 2019, which means, after receiving holiday pay for January 1, 2019, Claimant should have received sick leave pay from January 2, 2019 to the present. Claimant has not, however, received any pay for 2019.

Claimant remains under the care of her general physician (Terry Ishihara, M.D.), her pain management doctor (Fabian Proano, M.D.), her gynecologist (Reza Askari, M.D.), and her endocrinologist (Olga Caloff, M.D.).

Claimant is also receiving treatment for her Typhus from medical providers at U.S. HealthWorks. U.S. HealthWorks has advised Claimant to see an infectious disease specialist, but the workers' compensation adjuster has not yet approved this.

CLAIMANT'S LEGAL CLAIMS

Based on the facts set forth above, Claimant is the victim of the following legal violations:

1. Discrimination On the Basis of Physical Disabilities in Violation of the Fair Employment and Housing Act [Including, specifically, Gov. Code § 12940(a)]
2. Failure to Engage in the Interactive Process in Violation of the Fair Employment and Housing Act [Including, specifically, Gov. Code § 12940(n)]
3. Failure to Accommodate Physical Disabilities in Violation of the Fair Employment and Housing Act [Including, specifically, Gov. Code § 12940(m)]
4. Harassment On the Basis of Physical Disabilities in Violation of the Fair Employment and Housing Act [Including, specifically, Gov. Code § 12940(j)]
5. Discrimination on the Basis of Sex in Violation of the Fair Employment and Housing Act [Including, specifically, Gov. Code § 12940(a)]

6. Harassment on the Basis of Sex in Violation of the Fair Employment and Housing Act [Including, specifically, Gov. Code § 12940(j)]
7. Retaliatory Discrimination (Retaliation) in Violation of the Fair Employment and Housing Act [Including, specifically, Gov. Code § 12940(h)]
8. Discrimination for Exercising the Right to Medical Leave Pursuant to the California Family Rights Act [Including, specifically, Gov. Code § 12945.2(1)]
9. Interference in Violation of the California Family Rights Act [Including, specifically, Gov. Code § 12945.2(t), and 2 Cal. Code Regs. § 11094]
10. Failure to Take All Reasonable Steps to Prevent Discrimination and Harassment in Violation of the Fair Employment and Housing Act [Including, specifically, Gov. Code § 12940(k)]

PROOF OF SERVICE

I, Deena Kinzer, declare under penalty of perjury that I am over the age of 18 years and not a party to this action, and that on this date I served the individuals listed below with the following documents:

- 1) Notice of Filing Discrimination Complaint (with the Department of Fair Employment and Housing, Case No. 201901-04788314)
- 2) Notice of Case Closure and Right to Sue (issued by the Department of Fair Employment and Housing, Case No. 201901-04788314)
- 3) Complaint of Employment Discrimination Before the State of California Department of Employment and Housing Under the California Fair Employment and Housing Act (Gov. Code §§ 12900, *et seq.*)

Individuals served:

OFFICE OF THE CITY CLERK
200 North Spring Street
Room 395, City Hall
Los Angeles, CA 90012

MICHAEL N. FEUER
c/o OFFICE OF THE LOS ANGELES CITY ATTORNEY
200 N. Main Street, 9th Floor, City Hall East
Los Angeles, CA 90012-4131

OFFICE OF THE LOS ANGELES CITY ATTORNEY
Attn: Vivienne Swanigan, Managing Assistant City Attorney and Supervising Attorney, Labor Relations Division
200 N. Main Street, Room 800, City Hall East
Los Angeles, CA 90012-4131

Service was made by placing a copy in a separate envelope, with postage fully prepaid, addressed to the individual listed above at the address listed above, and depositing it in the U.S. Mail at Torrance, California, via certified mail with return receipt requested. [Gov. Code § 12962(b).]

Executed on January 15, 2019 at Torrance, California.


Deena Kinzer

EXHIBIT 2

TO FIRST AMENDED AND SUPPLEMENTAL COMPLAINT OF ELIZABETH L. GREENWOOD

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Attn: Vivienne Swanigan, Managing Assistant City Attorney and Supervising Attorney, Labor Relations Division
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Executed on January 15, 2019 at Torrance, California.


Deena Kinzer

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PROOF OF SERVICE

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- 3) Complaint of Employment Discrimination Before the State of California Department of Employment and Housing Under the California Fair Employment and Housing Act (Gov. Code §§ 12900, *et seq.*)

Individuals served:

OFFICE OF THE LOS ANGELES CITY ATTORNEY
Attn: Cory Brente, Supervising Assistant City Attorney
200 N. Main Street, Room 800, City Hall East
Los Angeles, CA 90012-4131

Service was made by placing a copy in a separate envelope, with postage fully prepaid, addressed to the individual listed above at the address listed above, and depositing it in the U.S. Mail at Torrance, California, via certified mail with return receipt requested. [Gov. Code § 12962(b).]

Executed on January 15, 2019 at Torrance, California.


Deena Kinzer

EXHIBIT 3

TO FIRST AMENDED AND SUPPLEMENTAL COMPLAINT OF ELIZABETH L. GREENWOOD



DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

KEVIN KISH, DIRECTOR

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758
(800) 884-1684 (Voice) | (800) 700-2320 (TTY) | California's Relay Service at 711
<http://www.dfeh.ca.gov> | Email: contact.center@dfeh.ca.gov

March 5, 2019

Janelle Menges
21250 Hawthorne Boulevard
Torrance, California 90503

RE: **Notice to Complainant's Attorney**
DFEH Matter Number: 201903-05344505
Right to Sue: Greenwood / City of Los Angeles, a municipal corporation et al.

Dear Janelle Menges:

Attached is a copy of your complaint of discrimination filed with the Department of Fair Employment and Housing (DFEH) pursuant to the California Fair Employment and Housing Act, Government Code section 12900 et seq. Also attached is a copy of your Notice of Case Closure and Right to Sue.

Pursuant to Government Code section 12962, DFEH will not serve these documents on the employer. You must serve the complaint separately, to all named respondents. Please refer to the attached Notice of Case Closure and Right to Sue for information regarding filing a private lawsuit in the State of California. A courtesy "Notice of Filing of Discrimination Complaint" is attached for your convenience.

Be advised that the DFEH does not review or edit the complaint form to ensure that it meets procedural or statutory requirements.

Sincerely,

Department of Fair Employment and Housing



DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758
(800) 884-1684 (Voice) | (800) 700-2320 (TTY) | California's Relay Service at 711
<http://www.dfeh.ca.gov> | Email: contact.center@dfeh.ca.gov

KEVIN KISH, DIRECTOR

March 5, 2019

RE: **Notice of Filing of Discrimination Complaint**
DFEH Matter Number: 201903-05344505
Right to Sue: Greenwood / City of Los Angeles, a municipal corporation et al.

To All Respondent(s):

Enclosed is a copy of a complaint of discrimination that has been filed with the Department of Fair Employment and Housing (DFEH) in accordance with Government Code section 12960. This constitutes service of the complaint pursuant to Government Code section 12962. The complainant has requested an authorization to file a lawsuit. This case is not being investigated by DFEH and is being closed immediately. A copy of the Notice of Case Closure and Right to Sue is enclosed for your records.

Please refer to the attached complaint for a list of all respondent(s) and their contact information.

No response to DFEH is requested or required.

Sincerely,

Department of Fair Employment and Housing



DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758
(800) 884-1684 (Voice) | (800) 700-2320 (TTY) | California's Relay Service at 711
<http://www.dfeh.ca.gov> | Email: contact.center@dfeh.ca.gov

KEVIN KISH, DIRECTOR

March 5, 2019

Elizabeth Greenwood
1147 Englander Street
San Pedro, California 90731

RE: **Notice of Case Closure and Right to Sue**
DFEH Matter Number: 201903-05344505
Right to Sue: Greenwood / City of Los Angeles, a municipal corporation et al.

Dear Elizabeth Greenwood,

This letter informs you that the above-referenced complaint was filed with the Department of Fair Employment and Housing (DFEH) has been closed effective March 5, 2019 because an immediate Right to Sue notice was requested. DFEH will take no further action on the complaint.

This letter is also your Right to Sue notice. According to Government Code section 12965, subdivision (b), a civil action may be brought under the provisions of the Fair Employment and Housing Act against the person, employer, labor organization or employment agency named in the above-referenced complaint. The civil action must be filed within one year from the date of this letter.

To obtain a federal Right to Sue notice, you must contact the U.S. Equal Employment Opportunity Commission (EEOC) to file a complaint within 30 days of receipt of this DFEH Notice of Case Closure or within 300 days of the alleged discriminatory act, whichever is earlier.

Sincerely,

Department of Fair Employment and Housing

1 **COMPLAINT OF EMPLOYMENT DISCRIMINATION**
2 **BEFORE THE STATE OF CALIFORNIA**
3 **DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING**
4 **Under the California Fair Employment and Housing Act**
 (Gov. Code, § 12900 et seq.)

5 **In the Matter of the Complaint of**
6 Elizabeth Greenwood

DFEH No. 201903-05344505

7 Complainant,
8 vs.

9 City of Los Angeles, a municipal corporation
10 200 N. Main Street, Room 800
11 Los Angeles, California 90012

12 Office of the Los Angeles City Attorney, a
13 department of the City of Los Angeles
14 200 N. Main Street, Room 800
15 Los Angeles, California 90012

16 Michael N. Feuer, City Attorney
17 200 N. Main Street, Room 800
18 Los Angeles, California 90012

19 Cory Brente
20 200 N. Main Street, Room 800
21 Los Angeles, California 90012

22 Respondents

23 1. Respondent **City of Los Angeles, a municipal corporation** is an employer
24 subject to suit under the California Fair Employment and Housing Act (FEHA) (Gov.
25 Code, § 12900 et seq.).

26 2. Complainant **Elizabeth Greenwood**, resides in the City of **San Pedro** State of
27 **California**.

28 3. Complainant alleges that on or about **March 5, 2019**, respondent took the
following adverse actions:

1 **Complainant was harassed** because of complainant's sex/gender, family care or
2 medical leave (cfra) (employers of 50 or more people), disability (physical or mental),
3 other, pregnancy, childbirth, breast feeding, and/or related medical conditions,
sexual harassment- hostile environment.

4 **Complainant was discriminated against** because of complainant's sex/gender,
5 family care or medical leave (cfra) (employers of 50 or more people), disability
6 (physical or mental), other, pregnancy, childbirth, breast feeding, and/or related
7 medical conditions, sexual harassment- hostile environment and as a result of the
8 discrimination was denied hire or promotion, reprimanded, denied equal pay, asked
9 impermissible non-job-related questions, denied a work environment free of
discrimination and/or retaliation, denied any employment benefit or privilege, denied
reasonable accommodation for a disability, denied family care or medical leave
(cfra) (employers of 50 or more people), other, denied work opportunities or
assignments, denied or forced to transfer.

10 **Complainant experienced retaliation** because complainant reported or resisted
11 any form of discrimination or harassment, requested or used a disability-related
12 accommodation, requested or used leave under the california family rights act or
13 fmla (employers of 50 or more people) and as a result was denied hire or promotion,
14 reprimanded, denied equal pay, asked impermissible non-job-related questions,
15 denied a work environment free of discrimination and/or retaliation, denied any
employment benefit or privilege, denied reasonable accommodation for a disability,
denied family care or medical leave (cfra) (employers of 50 or more people), other,
denied or forced to transfer.

16
17 **Additional Complaint Details:** Please see the attached document entitled "Third
DFEH Complaint Attachment."

1 VERIFICATION

2 I, **Janelle Menges**, am the **Attorney** in the above-entitled complaint. I have read the
3 foregoing complaint and know the contents thereof. The matters alleged are based
4 on information and belief, which I believe to be true.

5 On March 5, 2019, I declare under penalty of perjury under the laws of the State of
6 California that the foregoing is true and correct.

7 **Torrance, California**

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Complaint – DFEH No. 201903-05344505

28 Date Filed: March 5, 2019

**ATTACHMENT TO
DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING COMPLAINT
OF ELIZABETH GREENWOOD**

ABBREVIATIONS

Claimant ELIZABETH L. GREENWOOD is referred to herein as "Claimant."

Respondent CITY OF LOS ANGELES is referred to herein as Respondent CITY.

Respondent OFFICE OF THE LOS ANGELES CITY ATTORNEY is referred to herein as "Respondent CITY ATTORNEY'S OFFICE."

Respondent MICHAEL N. FEUER, CITY ATTORNEY is referred to herein as "Respondent FEUER."

Respondent FEUER, Respondent CITY, and Respondent CITY ATTORNEY'S OFFICE may be jointly referred to herein as the "EMPLOYER Respondents."

Respondent CORY BRENTÉ is referred to herein as "Respondent BRENTÉ."

FACTS

Plaintiff is a 54-year-old female who has multiple physical disabilities.

Plaintiff has been employed as a Deputy City Attorney with EMPLOYER Defendants since July 1996, when she began as a Deputy City Attorney I, Step A. In May 1998, Plaintiff was assigned to Central Trials. In March 1999, Plaintiff was assigned to the Gangs Unit, where she worked as a prosecutor from 1999 to 2007. In March 2007, Plaintiff was transferred to Homeland Security and promoted to Deputy City Attorney III, Step G (equivalent to Step 13 under the new system). In March 2009, she was transferred to the Neighborhood Prosecutor Program, working as Neighborhood Prosecutor – South Bureau. In that position, Plaintiff attended community meetings and prosecuted projects and issues which were most negatively affecting the area to which she was assigned.

Over the years, Plaintiff has received numerous awards and recognitions from Defendant CITY ATTORNEY'S OFFICE, the Los Angeles Police Department, the Office of the District Attorney, the County of Los Angeles, the California State Senate, the California Legislature Assembly, and Congresswoman Jane Harman. Plaintiff has been positively mentioned in the *Daily Breeze* about 20 times.

Despite the aggressive treatment, Plaintiff's symptoms worsened. By March 2010, she had pain

when sitting at her desk, driving, lifting, carrying, reaching, bending, and squatting. Her diagnosis at that time (by William Dillin, M.D.) was: 1) Lumbar Degenerative Disc Disease, 2) Lumbar Radiculopathy, and 3) Lumbar Disc Herniation. Lumbar spine surgery was recommended. On March 12, 2010, Plaintiff underwent spinal surgery, having: 1) A left L4-L5 Modified Microdiscectomy; 2) A left L4 Hemilaminotomy; and (3) A left L4-L5 Lateral Recess Resection. She was on leave pursuant to the Family and Medical Leave Act ("FMLA") and CFRA for three months, from approximately March 11 through June 5, 2010.

Prior to Plaintiff's surgery and CFRA leave, she had been assigned to the Neighborhood Prosecutor Program – South Bureau, where she interacted with the community and served as a Neighborhood Prosecutor. She enjoyed this job because it involved working with the community and being in court. Plaintiff had an office in the San Pedro City Hall during the time she was a Neighborhood Prosecutor, which worked well since Plaintiff resided in San Pedro.

On September 7, 2010, Plaintiff was transferred to Housing Enforcement because of a request by Mary Clare Molitor. Plaintiff did not want this transfer because, for someone who had been a prosecutor in the Gang Unit, then an attorney in Homeland Security, then a Neighborhood Prosecutor, being transferred to Housing Enforcement was not a forward trajectory for her career path, and was not even a lawyer type of job. However, Mary Clare Molitor told Plaintiff she would continue to be working out of an office in San Pedro (which was of course important to Plaintiff because driving exacerbated her lumbar spine disability), and attempted to convince Plaintiff that even though the position was not really an attorney position, but actually more of a mediator position, once she got into the position, she would like it. At Housing Enforcement, Plaintiff mediated disputes between landlords and tenants related to landlords allegedly not complying with the Los Angeles Rent Stabilization Ordinance. Although she did not like the job at first, Mary Clare Molitor was right – after Plaintiff performed this job for a while, she came to enjoy it because she thought she was making a difference in peoples' lives.

In September 2010, Plaintiff informed her new supervisor, Jonathan Galatzan (Supervising Attorney, Housing Enforcement), of her lumbar spine disability almost immediately after being transferred to Housing Enforcement. Later in September 2010, Plaintiff told Jonathan Galatzan about the lower back pain she was having, especially when sitting in her desk chair at work. (Plaintiff was working from an office in the San Pedro City Hall at this time, so at least she did not have to spend hours driving.) Over the next few months, Plaintiff repeatedly told Jonathan Galatzan about the pain she was experiencing while sitting, but Defendants failed to initiate a timely, good-faith, interactive process or to do anything else regarding Plaintiff's complaints of pain caused by sitting at her desk.

In early 2011, Roy Simon, M.D. prescribed Plaintiff an anti-inflammatory and a pain medication, and also prescribed that she have an ergonomic chair for work, and that an ergonomic evaluation of her office be conducted. Plaintiff submitted the prescription for the ergonomic chair to the

Human Resources Department, but absolutely no action was taken.¹ Plaintiff continued complaining to Jonathan Galatzan about her ongoing back pain while sitting in her desk chair. She asked him to try to get the Human Resources Department to arrange for the ergonomic evaluation, but he was no help at all.

In fact, rather than attempt to assist Plaintiff in obtaining the ergonomic evaluation, in spring and summer 2011, Jonathan Galatzan began harassing and discriminating against Plaintiff.² For example, although Plaintiff was already mediating disputes between landlords and tenants related to landlords allegedly not complying with the Los Angeles Rent Stabilization Ordinance on a city-wide basis (while working from an office in the San Pedro City Hall), Jonathan Galatzan assigned Plaintiff additional work consisting of code violation cases which required her to travel to downtown Los Angeles on a regular basis. This is not what Plaintiff had been assigned to do when Mary Clare Molidor caused Plaintiff to be transferred into Housing Enforcement.³ Plaintiff did not want this new assignment and did not agree to it. Plaintiff's workload mediating Rent Stabilization Ordinance violations city-wide was a full-time job, and Plaintiff also spent several hours per week in her role as an elected commissioner of the Los Angeles City Employees' Retirement System ("LACERS"). Adding code violation cases not only increased Plaintiff's workload, but required her to spend much more time in downtown Los Angeles, rather than in her office in San Pedro. Also, rather than attempt to assist Plaintiff in obtaining the ergonomic evaluation of her office (which was in San Pedro), Jonathan Galatzan assigned Plaintiff to a work area in downtown Los Angeles which consisted of a desk in a storage closet, which was less ergonomically correct than her office in San Pedro, and with a chair which was even more uncomfortable than her chair in San Pedro. The additional travel of course exacerbated Plaintiff's disability, and she told Jonathan Galatzan this. Jonathan Galatzan nonetheless left the code violation assignments on Plaintiff's storage closet desk.

Throughout summer and fall, 2011, Plaintiff complained to Jonathan Galatzan about how the downtown assignments were exacerbating her lumbar spine disability, due both to the travel and the completely non-ergonomic storage closet office. Jonathan Galatzan responded on October 14, 2011, by issuing a Notice to Correct Deficiencies to Plaintiff, in which he accused her of failing to file four code violation cases on time, even though filing delays had been a longstanding problem within the Housing Enforcement Department for many years before Plaintiff was assigned to the unit. Additionally, the practice in Housing Enforcement was to delay the cases for years, until the owners were able to gather enough money to make the repairs. It was not uncommon for cases to last several

¹This was the first of many requests Plaintiff made for reasonable accommodations for her physical disability.

²This was the beginning of the harassment and discrimination to which Plaintiff has been subjected because of her physical disability.

³Plaintiff's job, as requested by Mary Clare Molidor, Senior Assistant City Attorney in Charge of Safe Neighborhoods, was to mediate and prosecute violations of the City's Rent Stabilization Ordinance. It was not to prosecute families who had scraped together enough money to purchase an apartment building where there had been a previous illegal subdivision.

years. Sometimes when it was clear the owners did not have any money to make repairs, cases lasted so long that the statute of limitations ran. This was happening for years before Plaintiff began to be assigned the code violation cases (in addition to her full-time assignment of mediating Rent Stabilization Ordinance violations).

In approximately November 2011, Jonathan Galatzan was replaced by Donald Cocek. Plaintiff immediately told Donald Cocek about her back injury, about her pain issues, and about her request for an ergonomic evaluation and an ergonomic chair, which she now needed in two offices (San Pedro and downtown). Plaintiff asked whether there was anything Donald Cocek could do to assist in obtaining these items. Rather than assist, however, Donald Cocek took the job of mediating Rent Stabilization Ordinance violations away from Plaintiff, so that she was handling code violation cases exclusively. When Plaintiff asked why he was doing this, Donald Cocek was not able to articulate a reason. Additionally, the non-disabled male attorney to whom the work was assigned did not even want the work. Changing Plaintiff's job so that she was handling code violation cases exclusively meant she was required to travel to downtown Los Angeles five days per week, and sit at a non-ergonomic desk in a non-ergonomic chair in the non-ergonomic storage closet office. These things exacerbated Plaintiff's back pain, and she was in pain 100% of the time she was either at work, or commuting to and from work. During late 2011 and 2012, Plaintiff repeatedly attempted to discuss this with Donald Cocek, but every time Plaintiff tried to talk with Donald Cocek, he stared at Plaintiff's breasts the entire time. (Donald Cocek also stared at Plaintiff's breasts every time she attempted to have a private conversation with him, and even sometimes when other people were present. Plaintiff did not report this sexual harassment, as it paled in comparison to the disability discrimination and harassment she was experiencing at the time, and having been working for Defendant CITY and Defendant CITY ATTORNEY'S OFFICE, sexual harassment was not new to her.)

Donald Cocek also constantly interrogated Plaintiff about the work she was doing for LACERS.⁴ It seemed to irritate him that he could not manage all Plaintiff's time. When Plaintiff would inform Donald Cocek regarding when and what she was doing for LACERS, and where she was doing it, he accused her of lying. Donald Cocek even went to Earl Thomas, Chief of Criminal and Special Litigation Division, about this, and Earl Thomas sent Plaintiff a memo on November 9, 2011. In that memo, Earl Thomas acknowledged that Plaintiff had "an obligation to perform fiduciary duties on behalf of LACERS," yet demanded that Plaintiff obtain advance approval from Donald Cocek before performing any of these fiduciary duties. Around this time, Plaintiff applied for a position in San Pedro, but right after she applied, the job requisition was canceled.

Plaintiff's back pain continued to worsen through 2011 and 2012. She repeatedly told Donald Cocek

⁴Plaintiff is one of seven people who manage LACERS. She was elected to a five-year term in 2009, and re-elected to a second five-year term in 2014. Defendant CITY and Defendant CITY ATTORNEY'S OFFICE pay for Plaintiff's time spent serving LACERS. What Plaintiff is doing in her role as an elected member of the Board of Administration of LACERS is none of Donald Cocek's business, but he frequently interrogated Plaintiff about her work on LACERS, then accused her of lying when she explained what she had been doing.

she was experiencing back pain, and needed an ergonomic evaluation of her office. Plaintiff also called the Human Resources Department during this time, to ask that the ergonomic evaluation (for which she had submitted a prescription in early 2011) be conducted without further delay.

On October 11, 2012, Plaintiff's father died very unexpectedly. The stress of this death exacerbated Plaintiff's back pain, and she was forced to take accrued vacation and sick leave from approximately October 2012 to approximately January 29, 2013. EMPLOYER Defendants were aware of Plaintiff's physical disability because she submitted a February 20, 2013 note from her primary care physician, Terry Ishihara, M.D., to the Human Resources Department. (EMPLOYER Defendants required Plaintiff to submit a note from her physician before they would classify any of her time off as sick leave. Until she provided the note, the time off had been classified as accrued vacation.)

The first day Plaintiff returned to work following her medical leave of absence, Donald Cocek gave Plaintiff a Notice to Correct Deficiencies for failing to file cases which he had assigned to her after she went out on approved leave, and the deadlines for which had passed before she returned from leave. Knowing Plaintiff was out on extended leave, Donald Cocek should have assigned the cases to other attorneys, but he did not. Instead, he kept the cases assigned to Plaintiff and waited for the statutes of limitations to run out in some of the cases, and other deadlines to pass in other cases. Plaintiff refused to sign the Notice to Correct Deficiencies for events which happened while she was on approved leave, and apparently Donald Cocek did not submit it to Personnel, because Plaintiff heard nothing more about it. Donald Cocek later tried to give Plaintiff a Notice to Correct Deficiencies relating to her work as an elected Commissioner of LACERS. Even though Donald Cocek had absolutely no involvement with LACERS, he accused Plaintiff of falsifying her time sheets for the time she was attributing to LACERS responsibilities. Plaintiff filed a grievance, Mary Clare Molitor mediated the matter, and the Notice to Correct Deficiencies went away. Even at the end of the mediation, however, Donald Cocek accused Plaintiff of "fudging" her time sheets. Plaintiff told Mary Clare Molitor she could not work for someone who thought she was a liar. Donald Cocek responded that he did not think Plaintiff was a liar, but that she needed to be honest on her time sheets. Therefore, although the Notice to Correct Deficiencies went away, nothing changed in Donald Cocek's treatment of Plaintiff.

On June 3, 2013, Plaintiff was finally transferred to a position which was commensurate with her many years of experience as a trial attorney. Plaintiff was transferred to the Police Litigation Unit, where she defends multimillion dollar claims against Defendant CITY in both state and federal court trials. Plaintiff's supervisor in the Police Litigation Unit was (and still is) Defendant BRENTÉ, Supervising Assistant City Attorney, Police Litigation Unit. This position involves longer hours than Plaintiff's previous position, and a significant amount of responsibility, and Plaintiff should have been promoted to at least a Deputy City Attorney IV, Step C, when she was transferred to this position, but she was not, as a direct result of her sex and physical disability. Plaintiff alleges on information and belief that male, non-disabled attorneys with less experience, who were performing substantially similar or even less complex and less demanding work, were promoted to ranks of Deputy City Attorney IV, Step C, or higher.

Plaintiff informed Defendant BRENTÉ of her lumbar spine (musculoskeletal) disability, and of the accommodations she needed for that disability, immediately upon being transferred to the Police Litigation Unit in June 2013.

Although Plaintiff enjoyed the position in the Police Litigation Unit, she continued to suffer constant pain related to her lumbar spine disability. She complained repeatedly to Defendant BRENTÉ about the need for an ergonomic chair and for an ergonomic evaluation of her office. These complaints lasted through the remainder of 2013 and to the present.

Despite her constant pain and disability-related absences, Plaintiff has been very successful in her position as trial attorney with the Police Litigation Unit. In January 2014, she obtained a total defense verdict in a federal court bench trial (*Gheli Carpaccio v. Sergeant Todd Cataldi, et al.*). In June 2015, she obtained a defense verdict in a federal court jury trial (*Robert S. Markman and Lisa J. Markman v. Det. John Macchiarella, et al.*), and in September 2017, she won another major federal court jury trial (*Raymond Hiawatha Porter v. City of Los Angeles, et al.*) – each time saving Defendant CITY potentially hundreds of thousands of dollars. Plaintiff has in fact never lost a trial while in the Police Litigation Unit.

On her anniversary date in March 2014, Plaintiff should have been promoted to Deputy City Attorney IV, Step D, but she was not. (She only received her small anniversary step, which is virtually automatic.) Plaintiff alleges on information and belief that male, non-disabled attorneys with less experience who were performing substantially similar or even less complex and less demanding work, were promoted to ranks of Deputy City Attorney IV, Step D, or higher.

On her anniversary date in March 2015, Plaintiff should have been promoted to Deputy City Attorney IV, Step E, but she was not, since she had never even been promoted to the Deputy City Attorney IV position. (She only received her small anniversary step, which is virtually automatic.) Instead, she was stuck in the Deputy City Attorney III, Step G, position, where she had been since March 23, 2007. This failure and/or refusal to promote Plaintiff was a direct result of her sex and physical disability. Plaintiff alleges on information and belief that male, non-disabled attorneys with less experience who were performing substantially similar or even less complex and less demanding work, were promoted to ranks of Deputy City Attorney IV, Step E, or higher.

Although Plaintiff was succeeding in the courtroom, she was continuing to experience constant back pain, especially when working at the desk in her office. Her pain when sitting down was so bad that she had family and friends drive her to and from work, and to and from the courthouses. Plaintiff's back pain was so severe that she had to go to the emergency department of San Pedro Hospital on July 7, 2015. On July 8, 2015, Plaintiff reported to her doctor at Kerlan-Jobe that she had pain in her back and left leg which had gotten worse, and that her symptoms worsened as she sat and drove. At the time, she was unable to lift, carry, reach, bend, push, pull, climb, kneel, or squat. She was diagnosed with: 1) Lumbar degenerative disc disease; 2) Lumbar radiculopathy; and 3) Status post lumbar discectomy. Plaintiff continued to complain to Defendant BRENTÉ about her lumbar spine

disability, and continued to request accommodations as discussed above.

A July 13, 2015 MRI of Plaintiff's lumbar spine showed: 1) Degenerative disc disease at L4-5 with a 2mm left lateral disc bulge/protrusion and contiguous 8x5mm left lateral extrusion effacing the left L5 nerve root; 2) Left laminectomy; 3) Disc desiccation at L5-S1 with a 3mm left lateral disc bulge abutting the left L5 and exiting the left L4 nerve roots; 4) Disc desiccation at L1-2 with a 12x4mm contiguous and superior extrusion abutting the posterior margin of the L1 vertebral body; 5) Mild disc desiccation at L3-4 with mild central canal stenosis due to facet and ligamentum flavum hypertrophy; 6) Disc desiccation at the L2-3 level with a 1.5mm central and right lateral disc bulge; and 7) Possible adenomyosis of the uterus. After that, Plaintiff began seeing Fabian Proano, M.D. for pain management.

Despite the continuous pain she was enduring, Plaintiff continued to prevail at trial. As mentioned above, in June 2015 Plaintiff obtained a defense verdict in a federal court jury trial (*Robert S. Markman and Lisa J. Markman v. Det. John Macchiarella, et al.*). Plaintiff continued trying to work and to deal with her back pain. On August 12, 2015 and again on October 5, 2015, she had a procedure consisting of lumbar selective nerve root blocks at the left L4-L5 level and a lumbar epidural steroid injection at the L4-L5 level.

Having received no response from Defendant BRENTÉ to her two and one-half years of requests for accommodations for her lumbar spine disability, on January 6, 2016, Plaintiff sent an email to Wanda Hudson in the Human Resources Department, stating that she had two prescriptions – one for an ergonomic chair and another for an ergonomic analysis of her office. Plaintiff explained to Wanda Hudson that she had lower back surgery five years earlier and had a reoccurrence of the problem in June 2015. Plaintiff explained that she was healing slowly and that although her office chair was only a couple years old, after sitting in the chair for a while, she had quite a bit of pain and difficulty standing back up. Plaintiff told Wanda Hudson that she hoped a new ergonomic chair, coupled with an ergonomic analysis of her office, would help. Plaintiff attached the new prescription for her chair to the email and said she could also get the prescription for the ergonomic analysis if needed. Plaintiff copied her supervisor, Defendant BRENTÉ, on the email to Wanda Hudson and, on January 7, 2016, forwarded the email to Cristina Sarabia, Human Resources Director.

On January 8, 2016, Cristina Sarabia sent an email in which she instructed Plaintiff to submit her requests for an ergonomic chair and an ergonomic evaluation to the Occupational Safety and Health Division of Defendant CITY's Personnel Department. Cristina Sarabia stated that Plaintiff needed to get her supervisor to approve her request (which seems very strange, since her supervisor is not an ergonomics specialist, and had in fact done nothing to facilitate Plaintiff obtaining the ergonomic items up to that point), and that after that happened, an appointment would be scheduled within two to three weeks. Cristina Sarabia further stated that, once the Occupational Safety and Health Division determined what ergonomic items Plaintiff required, the Human Resources Department would work with Plaintiff to get the recommended equipment to her "promptly." Plaintiff immediately submitted her requests for an ergonomic chair and an ergonomic evaluation to the Occupational Safety and Health Division of Defendant CITY's Personnel Department, as directed

by Cristina Sarabia.

An ergonomic evaluation of Plaintiff's workstation was conducted on February 11, 2016. On February 16, 2016, Daniela Zaccaro, Ergonomist with the Occupational Safety and Health Division, issued a report in which she listed the equipment which Plaintiff required. This included a chair with a tailbone cut-out, a document holder, a monitor arm, and an adjustable footstool. The report provided:

The requesting department supervisor or referring agent is responsible for addressing and carrying out the recommendations in this report. This includes ordering, purchasing, and installing equipment as well as making arrangements for recommended modifications to the workstation. For City owned buildings, General Services Division can install some equipment. . . .

[Emphasis added.] Plaintiff's department supervisor was Defendant BRENTÉ.

Also on February 16, 2016, Daniela Zaccaro sent an email to Defendant BRENTÉ, Wanda Hudson, and Plaintiff, in which she provided information on possible vendors, and stated:

The requesting department supervisor or referring agent is responsible for addressing and carrying out the recommendations in this report. This includes ordering, purchasing, and installing equipment as well as making arrangements for recommended modifications to the workstation. For City owned buildings, General Services Division can install some equipment. . . .

[Emphasis added.] By this time it had been about six weeks since Plaintiff submitted her most recent request for an ergonomic chair and an ergonomic evaluation.⁵

On February 29, 2016, Plaintiff had additional injections of steroids, bilaterally at the L4-S1 level.

On her anniversary date in March 2016, Plaintiff should have been promoted to Deputy City Attorney IV, Step F, but she was not, since she had never even been promoted to the Deputy City Attorney IV position. (She only received her small anniversary step, which is virtually automatic.) Instead, Plaintiff was stuck in the Deputy City Attorney III, Step G, position, where she had been since March 23, 2007. This failure to promote Plaintiff was a direct result of her sex and physical disability. Plaintiff alleges on information and belief that male, non-disabled attorneys with less

⁵Plaintiff's original prescription for an ergonomic chair and request for an evaluation for an ergonomic workstation was in early 2011.

experience, who were performing substantially similar or even less complex and less demanding work, were promoted to ranks of Deputy City Attorney IV, Step F, or higher.

In March 2016, Plaintiff began to have a different medical problem. She had been having extremely heavy menstrual periods for years, to the point where she had become anemic in 2012, and underwent an endometrial biopsy, after which she was diagnosed as having a fibroid uterus. The condition worsened, and she saw her gynecologist (Reza Askari, M.D.) on Friday, March 11, 2016. Plaintiff's hemoglobin was dangerously low because she was bleeding so much, and Dr. Askari admitted Plaintiff to the hospital that day, and she began taking FMLA/CFRA leave on that day – March 11, 2016. Plaintiff was given four units of whole blood, and was kept in the hospital over the weekend. She was released on Monday, March 14, 2016. On Thursday, March 17, 2016, Plaintiff began hemorrhaging and was rushed to the hospital. On March 18, 2016, Plaintiff underwent an emergency hysterectomy at Providence Little Company of Mary Medical Center in San Pedro. Before she went into surgery, Plaintiff contacted Defendant BRENTE, Cristina Sarabia, and Wanda Hudson, and advised all of them that she was having emergency surgery, and would need to take FMLA/CFRA leave for an unknown amount of time. Plaintiff also emailed Kellie Tran (Payroll and Special Funds Administrator) and told her she was having an emergency hysterectomy, and that she had already notified Defendant BRENTE. Kellie Tran emailed Cristina Sarabia and Wanda Hudson with the information the same day.

On March 24, 2016, Cristina Sarabia, Human Resources Director, sent Plaintiff a memo, advising her that her FMLA/CFRA leave was approved from March 18, 2016 through a date not yet determined. Cristina Sarabia also stated in the March 24, 2016 memo: "During your leave, the Payroll Section of the Los Angeles CITY ATTORNEY'S Office will input the appropriate payroll codes into our office's payroll system (D-Time)."

On April 26, 2016, Plaintiff's physician completed a medical certification in which he stated that Plaintiff would not be able to return to work until May 14, 2016, but that she was able to return to "limited work from home" as of April 18, 2016. On or about April 30, 2016, Plaintiff's physician twice faxed the Certification of Health Care Provider to Wanda Hudson of the Human Resources Department. Despite that, and despite the written assurances in Cristina Sarabia's March 24, 2016 memo, on May 1, 2016, while Plaintiff was home recovering from surgery, Wanda Hudson sent Plaintiff an email telling her she was being removed from payroll, effective May 2, 2016. Plaintiff had a substantial amount of accrued sick leave at this time, which Wanda Hudson knew. The May 1, 2016 email from Wanda Hudson caused added stress, which Plaintiff alleges contributed to the various physical problems she was having.

Unfortunately, Plaintiff's problems relating to her hysterectomy were far from over. She experienced an abrupt and extremely severe menopause. Also around this time, she developed severe hypothyroidism, most likely caused by an auto-immune disorder. Plaintiff became exhausted and developed rashes and itchiness on her extremities. She was also damp and sweaty on her entire body all the time, which greatly delayed the healing of her incision and caused her to develop a postoperative wound infection. Plaintiff also had memory loss, difficulty concentrating, and was

unable to think or reason at her normal level. She also began requiring about 16 hours of sleep per night. Although Plaintiff had planned to return to work on May 16, 2016, at least part-time, she was unable to because of the panoply of medical issues she was experiencing. Plaintiff's FMLA/CFRA leave was therefore continued from May 16, 2016 through June 5, 2016.

Arranging for this FMLA/CFRA leave was an ordeal, because Wanda Hudson repeatedly requested more detailed medical information (to which EMPLOYER Defendants were not entitled) from Plaintiff's doctor, and threatened Plaintiff that if she did not provide further medical details, she would be classified as "AWOL." Plaintiff's doctor had sent a letter dated May 24, 2016, stating that Plaintiff was able to work from home for up to six hours per day, and that she could return to work on June 5, 2016. As a result of Wanda Hudson's haranguing and threats, on May 26, 2016, Plaintiff's physician wrote another letter, in which he stated:

Elizabeth Greenwood is unable to commute to and from the workplace. She is able to work from home for up to six hours a day. As she heals she is able to go out for short outings, but she is unable to be in an office environment for an extended period of time. This restriction is currently until June 5, 2016 and will be reviewed with Ms. Greenwood to see if further restrictions are necessary to maintain and improve her health as she recovers.

Plaintiff finally returned to work at the office on June 6, 2016. Plaintiff had voluntarily been doing some work from home starting in mid-April 2016, but was not paid for this time.⁶

When Plaintiff returned to work at the office on June 6, 2016, she thought that surely by this time, her office would be set up with the new ergonomic chair and the ergonomic equipment which the Occupational Safety and Health Division had recommended four months earlier, in February 2016. Unfortunately, even though Plaintiff had submitted her most recent request for an ergonomic chair and another for an ergonomic analysis of her office on January 5, 2016, neither the chair nor any of the other equipment had arrived. Therefore, in July 2016, Plaintiff emailed Wanda Hudson in the Human Resources Department about the fact that five months had passed since she had requested the ergonomic chair and an ergonomic analysis of her office, and she had still not received any of her ergonomic furnishings or equipment. About a week later, several boxes arrived in Plaintiff's office, but no one ever arrived to set up or install the items. According to the February 16, 2016 report from Daniela Zaccaro, Ergonomist with the Occupational Safety and Health Division, and the February 16, 2016 email which Daniela Zaccaro sent to Defendant BRENTÉ, the requesting department supervisor (Defendant BRENTÉ) should have made arrangements for the equipment to

⁶Although EMPLOYER Defendants had authorized Plaintiff to work from home three hours per day from May 3, 2016 through May 14, 2016, Defendant BRENTÉ never assigned Plaintiff any work during this period. However, Plaintiff's secretary would call from time to time and advise Plaintiff of deadlines and due dates on Plaintiff's cases (which had not been re-assigned during Plaintiff's FMLA leave), and Plaintiff would prepare whatever documents or take whatever action was required to prevent the case from being compromised.

be set up and installed, but he never did so. He did not even manage to get anyone to open the boxes to inventory what had arrived.

Plaintiff spoke repeatedly with Defendant BRENTE about her back pain and about the symptoms she was having relating to her abrupt menopause, her hormone deficiency, her auto-immune disorder⁷, and her hypothyroidism, including having difficulty thinking and concentrating. Plaintiff described to Defendant BRENTE the things she was doing to try to cope, and kept him updated on her various doctor visits and diagnoses. When she had to be out of the office for medical procedures and appointments, she kept Defendant BRENTE and other staff updated regarding due dates, deadlines, etc. on the cases she was assigned. These conversations occurred from July 2016 through February 2017.

From July 2016 thorough February 2017, Plaintiff complained repeatedly to Defendant BRENTE about her lumbar spine pain, and about the fact that her ergonomic equipment and furniture were still in boxes in her office (assuming that is actually what the boxes contained). As far as Plaintiff is aware, Defendant BRENTE did nothing to even arrange for the items to be un-boxed so someone could inventory them – let alone arrange to get them set up and installed.

Because of the complete failure by EMPLOYER Defendants to accommodate Plaintiff's physical disability, her pain became worse and worse. She was forced to take 34 hours of sick leave in October 2016, then 50 hours of sick leave in November 2016, then 134 hours of sick leave in January 2017. In January 2017, Plaintiff was prescribed steroids, Norco, Flexeril, Ketorolac injections, Tramadol injections, and a Lidocaine patch for her back pain. Despite all these medications, Plaintiff was experiencing constant back pain, and was still attempting to deal with the various extreme menopause symptoms (extreme hormone imbalances) she was having. On January 17, 2017, Dr. Proano gave Plaintiff a prescription for a stand-up desk. Later that day, Plaintiff gave this prescription to Wanda Hudson in the Human Resources Department and to someone in the Occupational Safety and Health Division of the City Personnel Department.

On January 18, 2017 and again on February 1, 2017, Plaintiff had selective nerve root blocks at the L5 level and a lumbar epidural steroid injection at the L5-S1 level. In addition to the severe back pain, Plaintiff was still suffering from the effects of the emergency hysterectomy and abrupt entry into menopause causing an extreme hormone imbalance, as well as the auto-immune disorder and hypothyroidism. Chief among the side effects was the need for Plaintiff to sleep about 16 hours per night.

Plaintiff sent an email to Daniela Zaccaro, Ergonomist, Personnel Department, Occupational Safety and Health Division, and they set up a few appointments to meet, but on each of the appointment days Plaintiff was unable to come to work, because of both the excruciating pain in her lower back,

⁷Around this time, Plaintiff was diagnosed as having an unspecified auto-immune disorder. She spent about a year trying to get a formal diagnosis concerning which auto-immune disorder she had. She saw an endocrinologist and submitted to numerous tests, but the auto-immune disorder was never formally specified.

and because of the hormone deficiencies she was dealing with, and which her doctors were still attempting to stabilize.

On January 22, 2017, Plaintiff received a change (not a promotion) from Deputy City Attorney III, Step G, to Deputy City Attorney III, Step 13, in order to convert to the new salary grade system.

On her anniversary date in March 2017, Plaintiff should have been promoted to Deputy City Attorney IV, Step 10, but she was not, since she had never even been promoted to the Deputy City Attorney IV position. Instead, she received only a small bump from Deputy City Attorney III, Step 13, to Deputy City Attorney III, Step 14. This failure to promote Plaintiff was a direct result of her sex, her physical disabilities, for taking FMLA/CFRA leave in 2016, and for complaining about this discrimination to Defendant BRENTÉ and to persons in the Human Resources Department. Plaintiff complained, among other things, that a male employee with physical disabilities comparable to hers would not be treated so callously. Plaintiff alleges on information and belief that male, non-disabled attorneys with less experience, who were performing substantially similar or even less complex and less demanding work, were promoted to ranks of Deputy City Attorney IV, Step 10, or higher.

In March 2017, as a result of the continued refusal of EMPLOYER Defendants to accommodate Plaintiff's physical disability, and the exacerbation which was caused by that continued refusal, Plaintiff was forced to take 24 hours of vacation and 16 hours of sick leave. In April 2017 she was forced to take 46 hours of sick leave. In May 2017 she was forced to take 99 hours of sick leave. Plaintiff complained to persons in the Human Resources Department that she was being discriminated against based on her sex and physical disabilities by being forced to exhaust the vacation and sick leave which she had worked for years to accrue, rather than being provided with the reasonable accommodations which would enable her to work. Plaintiff asserted that a male employee with disabilities comparable to her disabilities would not be treated so callously as she was being treated.

On June 12, 2017, Defendant BRENTÉ sent a memorandum to Human Resources, describing the essential job functions of deputy city attorneys working in the Police Litigation Unit (which is where Plaintiff had been assigned since June 2013). The essential job duties included functions which required a substantial amount of sitting (or standing) at a desk (although no time estimate was provided), and which also required traveling to court and to depositions, carrying, wheeling, lifting, and maneuvering boxes of trial documents, binders, and exhibits, "which are often voluminous." These essential job functions were not consistent with what the job had consisted of in the past, since support staff, rather than attorneys, took boxes of trial documents, binders, and exhibits to court and back, and did the "carrying, wheeling, lifting, and maneuvering." (Since Plaintiff's secretary had retired in early 2017, and Plaintiff was not even assigned a new secretary, the only assistance she received came from the clerks.) This job description with additional "essential job duties" appears to have been designed to make Plaintiff unqualified for her job, and to punish her for repeatedly requesting that she be treated fairly with regard to promotions, and that she be provided with the reasonable accommodations to which she was legally entitled.

On June 14, 2017, Plaintiff had to miss some work to undergo more lumbar facet injections in her lower back, bilaterally at the L4-S1 level. A week later, on June 21, 2017, Defendant BRENTÉ began criticizing Plaintiff for missing work and not working from 8:30 a.m. to 5:00 p.m. Even though Plaintiff had told Defendant BRENTÉ about her medical issues in detail (which legally she was not required to do), and had explained to him the reasons why she had to take time off work for so many medical appointments, and had to sleep 12 to 16 hours per night, making it very difficult to arrive at work by 8:30 a.m. and to work for eight hours per day, Defendant BRENTÉ criticized Plaintiff for the various issues which he knew were beyond her control because of her medical disabilities. (There was not even any business reason which required Plaintiff to be physically at the office from 8:30 a.m. to 5:00 p.m.) As a supervisor, and as an attorney, Defendant BRENTÉ surely knew he was required to reasonably accommodate Plaintiff's disabilities, and that he should certainly not be disciplining her because of her disabilities.

After the June 21, 2017 meeting with Defendant BRENTÉ, Plaintiff submitted a formal request for reasonable accommodations to the Human Resources Department. The meeting regarding Plaintiff's requested reasonable accommodations took place on July 11, 2017, with David Trujillo (HR Analyst) and Margaret Shikibu, both of the Human Resources Department. The accommodations Plaintiff was requesting related to her extreme menopause-related issues (extreme hormone imbalances), hypothyroidism, and un-categorized auto-immune disorder, which were requiring her to sleep 12 to 16 hours per night, preventing her from getting to work at 8:30 a.m. on some days, and preventing her from working eight hours per day on some days.

On July 11, 2017, the Human Resources Department granted Plaintiff a so-called temporary accommodation by changing her schedule to 10:00 a.m. to 6:00 p.m. This was not sufficient, however, since Plaintiff had to sleep about 12 to 16 hours per night, and work eight hours per day, which adds up to 20 to 24 hours per day, leaving Plaintiff no time to commute back and forth from San Pedro to downtown, no time to get ready in the morning and eat breakfast, and no time to eat a real dinner in the evening. The so-called accommodation meant that in order to get eight hours in at work, Plaintiff was forced to work through her lunch break, eating at her desk. While Plaintiff would normally have taken the opportunity to walk around and stretch during her lunch break, instead, she was forced to remain in place at her desk. Plaintiff was also forced to work in her office which still did not have the ergonomic improvements which had been requested first in 2011, and then again in January 2016, and some of which had been in unopened boxes in her office since July 2016 (at least, Plaintiff assumed that is what was in the boxes).

Plaintiff explained all this to Human Resources Department personnel, but her words fell on deaf ears. From July 23 through August 5, 2017, Plaintiff was forced to use 82 hours of sick leave and 38.5 hours of vacation as a direct result of the refusal of EMPLOYER Defendants to accommodate her disabilities. Plaintiff again complained to persons in the Human Resources Department that she was being discriminated against based on her sex and physical disabilities by being forced to exhaust the vacation and sick leave which she had worked for years to accrue, rather than being provided with the reasonable accommodations which would enable her to work. Plaintiff asserted that a male employee with physical disabilities comparable to hers would not be treated so callously as she was

being treated.

While Plaintiff was on sick leave, Defendant BRENTÉ failed to assign another attorney to cover Plaintiff's cases. As a result, some filing deadlines were missed. When Plaintiff was informed of filing deadlines, she would download the necessary documents from PACER and draft motions and other documents from home while she was using her accrued sick leave. (Plaintiff sometimes did not know about filing deadlines, however, since she had still not been assigned a secretary ever since her secretary retired in early 2017.)

The so-called temporary accommodation expired on July 28, 2017, because EMPLOYER Defendants required that Plaintiff submit documentation regarding her auto-immune disorder and hypothyroidism from her doctor (and in fact repeatedly and illegally requested detailed medical information to which EMPLOYER Defendants were not entitled), and Plaintiff could not get an appointment with the endocrinologist who was on Defendant CITY's health insurance plan until August 2017. In August 2017, Plaintiff's hormone replacement medication was doubled. Although Plaintiff was still suffering from other symptoms of extreme hormone deficiency, as well as with the symptoms resulting from her hypothyroidism and her auto-immune disorder, the doubling of her hormone replacement medication allowed her to Decrease her sleep time from 12 to 16 hours per night, down to 10 hours per night. While this was still a long time to sleep, it was a definite improvement.

By August 2017, it had been over six years since Plaintiff first started requesting an ergonomic evaluation, one and one-half years since it was finally performed, over a year since the boxes, presumably containing ergonomic items, were delivered to her office (but never even opened), and seven months since Plaintiff's doctor prescribed a stand-up desk. Plaintiff had spent hours talking to and emailing with the Human Resources Department, the Occupational Safety and Health Division of Defendant CITY's Personnel Department, and her supervisor, Defendant BRENTÉ, but absolutely nothing had been accomplished as far as any reasonable accommodations for Plaintiff's lumbar disability. The pain in her back was increasing to the point where she was in constant pain, had frequent muscle spasms, and was often unable to drive herself to and from work. She was taking so much pain medication it was adding to the fatigue she was already battling, and made it even more difficult for her to concentrate at work. Therefore, on August 14, 2017, Plaintiff submitted a workers' compensation Employee's Report of Injury/Illness to the Human Resources Department within Defendant CITY ATTORNEY'S OFFICE and went out on sick leave.

From August 14 through November 2017, Plaintiff constantly asked her supervisor, Defendant BRENTÉ, about her workers' compensation claim, to see when she would receive information regarding her workers' compensation medical leave, and Defendant BRENTÉ repeatedly told her to continue using her accrued sick leave whenever she was in too much pain to come to work. He also told Plaintiff that Human Resources told him a workers' compensation claim had not yet been opened for her, even though she had submitted her claim on August 14. Plaintiff had no reason not to believe him at the time.

Even though she was suffering extreme back pain, from September 26 through 29, 2017, Plaintiff conducted the trial in *Porter v. City of Los Angeles*, in which she prevailed. (Plaintiff was also very ill with the flu and was running a fever on September 27, but continued with the trial notwithstanding how ill she felt, because she feared she would be disciplined by her supervisor if she requested a one-day continuance.) Plaintiff had to have a friend drive her back and forth to court, because driving greatly exacerbated her back pain, and because she also needed the commute time for sleeping.

On October 3, 2017, shortly after completing the trial, Plaintiff saw Dr. Proano again, and had additional medial nerve branch blocks performed on her lumbar spine. This procedure was repeated on November 1, 2017.

Also in approximately October 2017, Defendant BRENTÉ asked Plaintiff why others in the Police Litigation Unit were able to get ergonomic equipment with ease, and she had so much trouble. (For example, a male attorney named Geoff Plowden had requested a reasonable accommodation, which he had promptly received.) This was a harassing comment, since ergonomic equipment had been delivered to Plaintiff's office in July 2016 and, as the requesting department supervisor, Defendant BRENTÉ was the very person who should have made arrangements for the equipment to be set up and installed. Incredibly, Defendant BRENTÉ suggested to Plaintiff that she install the ergonomic equipment herself which, among other things, would have required drilling a large hole in the desk to attach the monitor arm. Defendant BRENTÉ seemed to take enjoyment from the fact that Plaintiff was enduring intense pain, while the ergonomic equipment sat in Plaintiff's office, still in boxes, taunting her. Plaintiff told Defendant BRENTÉ he was harassing and discriminating against her based on her sex and physical disabilities by forcing her to exhaust the vacation and sick leave which she had worked for years to accrue, since obviously it was possible for reasonable accommodations to be provided to male employees in the department – just not to females.

Because Defendant BRENTÉ never assigned anyone to cover Plaintiff's cases when she was out on extended sick leave, Plaintiff returned to work as much as she could, on days the pain was not completely debilitating. She was unable to drive, however, so she could only go to work when she could get a driver, and could only work for a few hours at a time. As a result, she was required to take 76.6 hours of vacation, 9 hours of 100% sick leave, and 27 hours of 75% sick leave during October 2017.

Despite the fact that: i) Plaintiff had been on FMLA/CFRA leave from approximately March 11 through June 5, 2010 for her spinal surgery, ii) Plaintiff had been on FMLA/CFRA leave from March 11, 2016 through June 5, 2016 for her endometriosis and fibroid uterus, and then for the emergency hysterectomy and the complications relating to that surgery, iii) Plaintiff had communicated constantly with Defendant BRENTÉ regarding her various physical disabilities, and had answered many more questions regarding the details of her physical disabilities and serious health conditions than she was legally required to, iv) Plaintiff had been attempting to get ergonomic furniture which would at least lessen her back pain **since early 2011**, v) Defendant BRENTÉ was the person responsible for having the ergonomic items installed but the items had been sitting in boxes in

Plaintiff's office since July 2016, vi) Plaintiff had submitted a formal request for reasonable accommodations to Human Resources and met with Human Resources about this, and vii) Plaintiff had filed a workers' compensation claim on August 14, 2017, on November 7, 2017, Defendant BRENTÉ saw fit to issue a formal Notice to Correct Deficiencies to Plaintiff, which dwelled solely on difficulties she was having at work due to her physical disabilities.⁸

On November 8, 2017, when Plaintiff was literally at the doctor for the purpose of obtaining a note which Vivienne Swanigan (Managing Assistant City Attorney and Supervising Attorney of the Labor Relations Division) had said was required, Plaintiff received a call, ordering her back to the office to receive her Notice to Correct Deficiencies. The meeting was attended by Defendant BRENTÉ, Plaintiff, union representative Oscar Winslow, and a woman (name unknown) from the Personnel or Human Resources Department. During this meeting, Plaintiff described in detail all the health issues which were making it difficult for her to work regular hours, including the health issues she was having related to her severe menopause (severe hormone imbalance), her auto-immune disorder, her hypothyroidism, and her lumbar spine disability. Plaintiff explained that much of the time when she was late to work, it was because she required so much sleep because of the extreme menopause-related issues (extreme hormone imbalances), hypothyroidism, and un-categorized auto-immune disorder, or because she was groggy due to having been forced to take pain medication for her lumbar spine disability. She again requested reasonable accommodations for all her physical disabilities. Rather than discuss what reasonable accommodations might be possible, Defendant BRENTÉ said to Plaintiff, right in front of Oscar Winslow and the woman from Personnel, "We all know the workers' comp claim is bullshit." This was an accusation of Plaintiff committing an illegal act (workers' compensation fraud).⁹ Plaintiff pointed out that the Notice to Correct Deficiencies dwelled solely on difficulties she was having at work due to her physical disabilities, and for which she had been requesting reasonable accommodations for seven years, and complained that this constituted harassment and discrimination based on her physical disabilities. Plaintiff also complained she was being discriminated against and harassed based on her sex because she did not believe male employees were being disciplined for having physical disabilities, and of course male employees did not have menopause issues. Plaintiff also complained she was being punished for using accrued sick leave, which she only had to use because Defendants refused to provide the reasonable accommodations she required.

At this point, Plaintiff became suspicious regarding the lack of any action on her workers' compensation claim, so she began to investigate. On November 8, 2017, she finally got in contact with Lisa Herron, ACME Claims Adjuster, who told Plaintiff her workers' compensation claim had been denied because Defendant BRENTÉ told Ms. Herron Plaintiff was not at work, and he did not

⁸According to the Notice to Correct, Defendant BRENTÉ accused Plaintiff of having unsatisfactory job performance from June 21, 2017 through September 29, 2017 – the very day Plaintiff received a favorable jury verdict in *Porter v. City of Los Angeles*.

⁹Plaintiff actually prevailed in that workers' compensation claim, so apparently it was not "bullshit."

know how to reach her! This was not true, since Defendant BRENTÉ knew how to reach Plaintiff by phone, text message, or email.

By November 26, 2017, Plaintiff was in such severe back pain that she had to use accrued vacation and sick leave through January 20, 2018. Plaintiff used various types of accrued leave during this period. While Plaintiff was on sick leave, Defendant BRENTÉ again failed to assign sufficient personnel to cover Plaintiff's cases. Plaintiff complained to David Trujillo that she was being discriminated against based on her sex and physical disabilities by being forced to exhaust the vacation and sick leave which she had worked for years to accrue. Plaintiff asserted that a male employee with physical disabilities comparable to hers would not be treated so callously as she was being treated. Plaintiff also complained to David Trujillo that Defendant BRENTÉ was harassing and discriminating against her by failing to assign sufficient personnel to cover her cases while she was on sick leave, which caused deadlines and due dates to be missed, for which she was being blamed. Plaintiff did not work voluntarily from home during this period of vacation and sick leave.¹⁰

On September 7, 2017, Plaintiff finally learned from David Trujillo (of the Human Resources Department) that she could reopen her workers' compensation claim by completing and returning some medical release forms, and submitting to an examination by a Qualified Medical Examiner. She returned the signed forms and began arranging for the examination.

On September 13 and 20, 2017, Plaintiff attempted to undergo a radiofrequency ablation procedure and a facet rhizotomy, but had a bad reaction to the anesthesia, so the procedures could not be completed on those dates. As a result of her continuing back pain, on September 20, 2017, Plaintiff's doctor wrote a note stating Plaintiff was unable to work from November 16, 2017 through January 15, 2018. She was finally able to have the radiofrequency ablation of the right L3-5 medial branch nerves on January 22, 2018.

Plaintiff had hoped to return to work on January 21, 2018, but was unfortunately unable to return to working full-time on that date. She therefore took intermittent FMLA/CFRA leave from January 21, 2018 through February 11, 2018. Plaintiff used accrued vacation and sick leave during this period. Once again, Defendant BRENTÉ failed to assign sufficient personnel to cover Plaintiff's cases, and once again Plaintiff complained to Defendant BRENTÉ that this constituted discrimination and harassment based on her physical disabilities and sex, and for taking FMLA/CFRA leave.

On January 29, 2018, Plaintiff had her annual medical examination at HealthCare Partners. Among other things, she was diagnosed as having anxiety disorder, depression, hypothyroidism, insomnia, sciatica, vitamin D deficiency, difficulty concentrating, elevated blood pressure, elevated liver enzymes, greater trochanteric bursitis, menopause syndrome, muscle spasms, and neurodermatitis.

¹⁰Plaintiff was afraid she would be criticized for voluntarily working during her leave since, on November 7, 2017, Defendant BRENTÉ had issued Plaintiff a formal Notice to Correct Deficiencies which dwelled solely on difficulties she was having at work due to her physical disabilities.

She was taking numerous prescription medications for these conditions. Plaintiff was also treating with her gynecologist (who was not part of HealthCare Partners), and was being prescribed hormone replacement and other medications related to her menopause syndrome by the gynecologist.

On February 7, 2018, Plaintiff's physician (Dr. Proano) wrote a note indicating she was able to return to work on February 12, 2018, but only to "light" work duties, and only with the following restrictions/accommodations: "no bending, stooping, lifting, sit no more than 1 hour, standing no more than 1 hour."

Plaintiff did return to work, full-time, on February 12, 2018. On that day, she submitted the February 7, 2018 note from Dr. Proano regarding her restrictions, along with the three ergonomic prescriptions from Dr. Proano – one for an ergonomic keyboard drawer, one for an ergonomic chair, and one for a stand-up desk – to the Human Resources Department. The Human Resources Department told Plaintiff she needed to have yet another ergonomics evaluation. It had been two years since Plaintiff had the first ergonomic evaluation, when the Occupational Safety and Health Division had determined that she needed a chair with a tailbone cut-out, a document holder, a monitor arm, and an adjustable footstool. (Those items had never been delivered, or were still in boxes in Plaintiff's office, needing to be un-boxed and installed.) It had also been over two years since Plaintiff's doctor initially prescribed an ergonomic chair, and one year since her doctor had initially prescribed a stand-up desk.

Amazingly, David Trujillo told Plaintiff it could be months before they would be able to get her the ergonomic evaluation. Plaintiff complained to David Trujillo that there were still boxes of ergonomic equipment in her office which had never been opened and installed. She told David Trujillo that her back would start aching within an hour of her sitting at her desk, and she was afraid sitting in that chair would seriously exacerbate her spinal disability. David Trujillo did not seem interested in getting the ergonomic equipment installed, and said they might have to put Plaintiff on administrative leave until they could conduct yet another ergonomic evaluation and get the new equipment in place.

On February 14, 2018, in what can only be viewed as an outright refusal to accommodate Plaintiff's disability, the Human Resources Department sent Plaintiff an email stating that she would have to completely re-start the ergonomic evaluation process. Plaintiff reminded Human Resources that she had originally started requesting an ergonomic evaluation process in early 2011, the ergonomic evaluation had finally been performed on February 1, 2016, and, although the boxed ergonomic items were finally delivered to her office in July 2016, none of the equipment had been set up.

Also on February 14, 2018, Plaintiff met with David Trujillo to discuss accommodation of the work restrictions which were listed on the February 7, 2018 note from her doctor (no bending, stooping, or lifting; no sitting for more than an hour at a time and no standing for more than an hour at a time). During this meeting, Plaintiff complained to David Trujillo that Defendant BRENT and EMPLOYER Defendants were harassing and discriminating against her because of taking FMLA/CFRA leave, and based on her physical disabilities and her sex, for the same reasons as

discussed above. On February 23, 2018, David Trujillo sent an email in which he stated that Plaintiff's request was with "Personnel to see if they had equipment readily available. If not available, she would be placed on the list for them to order."

On February 27, 2018, Plaintiff drove to Pasadena, where she conducted a six-hour deposition. The combination of driving to Pasadena, sitting for six hours, then driving back to San Pedro greatly exacerbated Plaintiff's back injury. She could not return to work because her ergonomic furniture and equipment had still not been installed. She attempted to work from home (from February 28, 2018 through March 8, 2018), but this reasonable accommodation was later denied her.

Plaintiff saw Dr. Askari again on March 7, 2018, and Dr. Askari noted complications of menopause, the presence of thyroid issues, and the presence of an unknown auto-immune disorder.

On March 8, 2018, Defendant BRENTÉ sent Plaintiff an email in which he admonished her for not keeping up with her work while she was in excruciating pain and trying to work from home. Since it was clear that EMPLOYER Defendants were not going to provide Plaintiff with ergonomic furnishings and equipment, and since the reasonable accommodation of working from home was being denied her, Plaintiff gave up trying to work from home and, on March 12, 2018, notified Human Resources of her need to take FMLA/CFRA leave, beginning (retroactively) on March 8, 2018, and ending on April 9, 2018.

The very next day (on March 13, 2018), her anniversary date step was denied/withheld for one year – something which is virtually unheard of. Since she should have already been a Deputy City Attorney IV, Step 10, at this point, she should have been promoted to Deputy City Attorney IV, Step 11, but was instead trapped at the Deputy City Attorney III, Step 14, level. This refusal to promote Plaintiff was a direct result of her sex, her physical disabilities, her repeated requests for accommodation, her repeated requests for an interactive dialogue/process, and for her taking FMLA/CFRA leave. Plaintiff alleges on information and belief that male, non-disabled attorneys with less experience who were performing substantially similar or even less complex and less demanding work, were promoted to ranks of Deputy City Attorney IV, Step 11, or higher.

Also on March 13, 2018, Plaintiff was examined by Qualified Medical Examiner Leon Brooks, M.D. After reviewing medical records and examining Plaintiff, Dr. Brooks determined that Plaintiff was "temporarily totally disabled." He also ordered that Plaintiff obtain an MRI of her spine, and electrodiagnostic studies.

On March 14, 2018, Plaintiff's request for FMLA/CFRA leave was approved for the period March 8 through April 9, 2018. Plaintiff was required to use approximately 168 hours of accrued (75%) sick leave during this period. Plaintiff again complained to David Trujillo that she was being discriminated against for taking FMLA/CFRA leave and also because of her sex and physical disabilities, by being forced to exhaust the vacation and sick leave which she had worked for years to accrue. Plaintiff asserted that a male employee with physical disabilities comparable to hers would not be treated so callously as she was being treated.

Plaintiff had hoped to return to work on April 10, 2018, as had been planned, but was physically unable to do so. (She attended a LACERS meeting, but was in so much pain afterward, she had to go home.) Plaintiff missed work on April 11, 2018 due to a death in the family. She returned to work on April 13, 2018. On April 17, 2018, Plaintiff obtained the MRI which had been ordered by Dr. Brooks (QME). By April 25, 2018, Plaintiff was in so much pain she could not work. She therefore requested to take a FMLA/CFRA leave of absence, but months went by without her receiving a response.¹¹ On May 8, 2018, Plaintiff obtained the electrodiagnostic studies which had been ordered by Dr. Brooks.

On June 8, 2018, David Trujillo told Plaintiff that her ergonomic equipment (which had first been prescribed by Plaintiff's doctor seven years earlier) had been "ordered," and that Human Resources was awaiting shipment. David Trujillo gave no indication regarding when the equipment was expected to arrive.

Amazingly, the very next day (June 9, 2018), Plaintiff's health benefits were terminated without notice, without a response to her April 25, 2018 request to take FMLA/CFRA leave, and without the ergonomic equipment being installed in her office, which would have allowed her to return to work. Plaintiff received no notice of the termination of her health insurance benefits from EMPLOYER Defendants. Rather, she learned of the termination of benefits from one of her medical providers. EMPLOYER Defendants terminated the health insurance of Plaintiff, who they knew had numerous health issues, without even giving her notice.

Then on June 12, 2018, even though Plaintiff had filed a workers' compensation claim on August 14, 2017, and had been Declared "temporarily totally disabled" by Dr. Brooks (QME) on March 13, 2018, David Trujillo notified Plaintiff that she was out of vacation and sick leave and had no more FMLA/CFRA time, so she would need to apply for short-term disability insurance. On June 13, 2018, Plaintiff asked David Trujillo to send her the paperwork which was necessary to apply for disability insurance. The application paperwork was provided, and Plaintiff applied for disability insurance on June 13, 2018 with Standard Insurance Company (under the City of Los Angeles group policy). Standard Insurance indicated it would respond by August 3, 2018.

On July 10, 2018, Dr. Brooks (the QME) issued a supplemental report in which he stated the following findings:

- Plaintiff should be precluded from repeated bending and stooping, lifting of weight in excess of 15 pounds, prolonged sitting or prolonged standing.
- Plaintiff will not be able to return back to her prior position in view of the physical requirements. He therefore considers her to be a qualified injured worker.

¹¹Eventually, on September 21, 2018, Human Resources sent a letter stating that Plaintiff was being granted a "personal medical leave of absence . . . as a reasonable accommodation for the continuous period of April 25, 2018 through October 16, 2018." Payroll records indicate this leave was classified as FMLA/CFRA leave from April 25, 2018 through June 9, 2018.

- He believes that 60% of Plaintiff's present impairment is related to her present injury of August 14, 2017 and 40% is related to her condition prior to the specific injury of August 14, 2017.
- Plaintiff remains with 8% impairment of the whole person per DRE lumbar category 2 of Table 15-3 page 383 of the AMA Guidelines Fifth Edition.

On July 13, 2018, David Trujillo sent Plaintiff an email in which he wrote:

Your department has changed your status to Part Time Intermittent and that is what has cancelled your benefits.

This status automatically cancels benefits by the payroll file provided to our TPA.

Amazingly, although EMPLOYER Defendants had removed Plaintiff from payroll and terminated her health insurance benefits on June 9, 2018, they did not bother to tell Plaintiff until over a month later, on July 13, 2018.

When Plaintiff did not hear anything by August 3, 2018, she contacted Standard Insurance Company and was told her claim was "on hold" because Standard Insurance was waiting for information from EMPLOYER Defendants. Standard Insurance said it had sent Defendant CITY a follow-up, but had still not heard back. Therefore, on August 3, 2018, Plaintiff wrote to David Trujillo, asking that he inquire into the status of her disability insurance application.

Plaintiff's disability insurance claim was eventually processed, and was denied by Standard Insurance on September 17, 2018; she is currently in the process of appealing. No progress was made on Plaintiff's workers' compensation claim during this time.

Plaintiff's request for a medical leave of absence took almost five months – from April 25, 2018 to September 21, 2018 – to be granted, leaving Plaintiff in fear of her employment being terminated due to her being unable to work as a result of her disabilities. Eventually, on September 21, 2018, Human Resources sent a letter stating that Plaintiff was being granted a "personal medical leave of absence . . . as a reasonable accommodation for the continuous period of April 25, 2018 through October 16, 2018." Payroll records indicate this leave was classified as FMLA/CFRA leave from April 25, 2018 through June 9, 2018, during which time 64 hours of Plaintiff's accrued vacation and 437 hours of Plaintiff's accrued sick leave were used. The remainder of the leave time was unpaid. To term this a "personal medical leave of absence . . . as a reasonable accommodation" is inaccurate, since the leave was FMLA/CFRA leave from April 25, 2018 through June 9, 2018, and after that it was unpaid leave without health insurance. This was therefore not a "reasonable accommodation." A true accommodation would have been to actually install the ergonomic equipment and furnishings which Plaintiff required, so she could be working, getting paid, and receiving health insurance and other benefits of employment.

On October 15, 2018, Plaintiff's attorneys sent a 36-page letter to Zina Portlock Houston, Special Counsel Personnel Standards and Employee Engagement (Office of the Los Angeles City Attorney), in which they requested a response by November 1, 2018. **To this date, no response has been provided.**

On October 16, 2018, Plaintiff submitted a complaint to EMPLOYER Defendants' Office of Discrimination Complaint Resolution. In that complaint, Plaintiff alleged discrimination based on disability and sex, and for taking FMLA/CFRA leave, and further alleged she had been subjected to a variety of harassing and discriminatory treatment, including several adverse employment actions.

On October 16, 2018, Plaintiff's physician wrote a note stating that she could return to work with the following restrictions/accommodations: "no bending, stooping, standing for more than 1 hour. Stand up desk and ergonomic chair [required]."

Plaintiff returned to work on October 17, 2018. When she arrived at her office, she discovered that her desk had been set up with two monitors and a soft desk pad for standing (which were both things she needed), but that the electric high-adjustable desk and electric high-adjustable chair which she understood had been ordered, had still not arrived. Plaintiff had previously submitted a note which Dr. Proano had written on February 7, 2018, indicating she could only perform "light" work duties, and only with the following restrictions/accommodations: "no bending, stooping, lifting, sit no more than 1 hour, standing no more than 1 hour." [Emphasis added.] EMPLOYER Defendants were aware of this because, on February 14, 2018, Plaintiff met with David Trujillo to discuss accommodation of the work restrictions which were identified in the February 7, 2018 note from her doctor (no bending, stooping, or lifting; no sitting for more than an hour at a time and no standing for more than an hour at a time). Then, on July 10, 2018, Dr. Brooks (EMPLOYER Defendants' designated QME) stated: "Plaintiff should be precluded from repeated bending and stooping, lifting of weight in excess of 15 pounds, prolonged sitting or prolonged standing." EMPLOYER Defendants were therefore well aware that Plaintiff was unable to raise and lower a stand-up desk and/or stand-up chair manually several times per day, and had a duty to provide Plaintiff with the electric high-adjustable desk and electric high-adjustable chair which she required in order to be able to perform her job.

On October 17, 2018, Plaintiff managed to work from 9:00 a.m. to 6:30 p.m., despite the severe back pain she was experiencing. On October 18, Plaintiff again worked a full day – from 9:45 a.m. to 7:00 p.m. On October 19, the pain was so bad when she awoke, she was not able to drive downtown until after she had been up for a while and had taken more pain medication. She therefore worked from 11:45 a.m. to 5:45 p.m.

Unfortunately, as a result of pushing her body, and working without the benefit of the ergonomic equipment she was supposed to have, Plaintiff experienced excruciating back pain for the next three days, and was unable to report to work on Monday, October 22, 2018. Her attendance was very sporadic the next couple weeks because of the back pain she was suffering due, at least in part, to the lack of ergonomic furnishings and equipment.

Every day Plaintiff was late to work, or unable to go to work at all, she texted Defendant BRENTÉ and advised him of her status. Sometimes he responded, but sometimes he did not. Plaintiff has told Defendant BRENTÉ she still needs 10 hours of sleep per day. If she has back spasms, she needs to take a pain pill, and take a hot shower. On mornings the pain is so severe that she has to take two pain pills, then she cannot drive. In late October 2018, Plaintiff explained to Defendant BRENTÉ that she was unable to obtain a new note from her doctor, because she was still without health insurance.

Plaintiff worked full days on October 30 and October 31, 2018. On October 30, 2018, Plaintiff spoke with one of EMPLOYER Defendants' attorneys regarding her workers' compensation claim. He told Plaintiff no Decision had been made by the workers' compensation insurance carrier regarding the claim she had submitted on August 14, 2017. Despite Dr. Brooks' July 10, 2018 findings, Plaintiff's workers' compensation claim has still not been processed by EMPLOYER Defendants. This means the payroll department has not credited back Plaintiff's sick leave and vacation accounts. Plaintiff has also not been paid any money for her workers' compensation claim, and also has not even been paid for working October 30 and 31, 2018.

On Thursday, November 1, 2018, Plaintiff became extremely ill, with a very high fever, and was diagnosed as probable Viral Meningitis. Plaintiff's physician (Terry Ishihara, M.D.) wanted to admit Plaintiff to the hospital, but she Declined to go because of being without health insurance. Plaintiff could not even have blood tests performed because of the lack of health insurance. Dr. Ishihara advised Plaintiff that she would need to stay in bed for at least a week, and probably longer. On November 1, 2018, Plaintiff advised both Defendant BRENTÉ and HR Analyst David Trujillo that she was sick, that she probably had Viral Meningitis, and that her doctor had advised at least a week of bed rest.

On Monday, November 5, 2018, persons from the Police Litigation Unit started emailing Plaintiff assignments to do at home. Not only was Plaintiff very ill, but she did not have any of the files she would need in order to do the work she was being assigned anyway. Plaintiff notified both the Police Litigation Unit and David Trujillo of these facts.

On November 8, 2018, Plaintiff learned that her health insurance had been reactivated.¹² Plaintiff was still very ill at this time. Her fever was not as high as previously, but she was still suffering from fever, headaches, chills, and severe vertigo. On November 20, Plaintiff's physician said it could take up to two weeks for her to recover from what, at that point, had been diagnosed as Viral Meningitis. Plaintiff's physician provided her with a note stating she could not return to work until December 3, 2018.

While Plaintiff was at the doctor on November 20, she had blood drawn for the purpose of testing

¹²Plaintiff was eligible for health insurance starting October 27, 2018, but despite Plaintiff urging EMPLOYER Defendants to hurry and get her insurance re-activated, Plaintiff's health insurance was not actually re-activated until November 8, 2018.

for Typhus. On November 27, 2018, Plaintiff learned she had Typhus (specifically, Typhus Fever Group IgG, IgM). Typhus is a very serious disease, which can be fatal if left untreated. Typhus can cause Viral Meningitis. Although Typhus is highly treatable with antibiotics, Plaintiff could not go to the hospital or even have blood tests until almost three weeks after her symptoms started, because her health insurance had not yet been re-activated (even though she was eligible for re-activation starting October 27, 2018).

Plaintiff most likely contracted Typhus while working for EMPLOYER Defendants. Typhus is transmitted by fleas and is believed to have started in the homeless encampments in downtown Los Angeles. There has been a Typhus epidemic in downtown Los Angeles since about September 2018. The county designated a 279-acre area bounded by Third, Seventh, Alameda, and Spring streets as the "Typhus Zone." Plaintiff's office is only two blocks outside the Typhus Zone.

On November 29, 2018, Plaintiff sent an email to Defendant BRENTE, copied to David Trujillo, in which she wrote:

Given the fact there is a typhus outbreak in Downtown LA I would like to file a workers' compensation claim. Would you please send me the paperwork.
Thank you very much.

David Trujillo replied that he would have "Nancy send over the paperwork." Plaintiff submitted a workers' compensation Employee's Report of Injury/Illness to the Human Resources Department within Defendant CITY ATTORNEY'S OFFICE, relating to her Typhus diagnosis, on December 1, 2018. In that document, Plaintiff wrote:

There is a typhus outbreak in downtown LA. Sometime the week of 10/16/18 while at my office I was bitten by one or more fleas. On November 1, 2018, I became violently ill. On 11/27/18, my primary care physician phoned me and informed me I tested positive for typhus.

Under "What can the City of Los Angeles do to help prevent similar accidents/incidents?" Plaintiff wrote "Fumigate City Hall East for fleas-immediately. This is a horrible condition."

Plaintiff did not return to work on December 3, 2018, however, because she was on a planned family vacation through December 10, 2018 plus, as it turned out, she was still ill from the Typhus the entire time, so she spent most of the vacation in bed, with intermittent fevers and with severe headaches. Plaintiff planned to return to work on December 11, 2018, but was unable to return for two reasons: 1) She was still suffering from severe vertigo, dizziness, and disequilibrium which are symptoms of Typhus; and 2) She feared contracting Typhus again, since her office is within two blocks of the Typhus Zone. (Typhus can be contracted repeatedly, and since Plaintiff has an autoimmune disorder, she is at increased risk for contracting Typhus. In California, an employee is not required to work under hazardous working conditions which present a serious risk of harm.) Although EMPLOYER Defendants had indicated they had sprayed pesticide in Plaintiff's personal

office, the rest of the building had not been fumigated, so Plaintiff would still not be protected from Typhus-carrying fleas.

On December 9, 2018, Plaintiff learned that her health insurance had been changed from Anthem, to Kaiser Permanente, without anyone even giving her any notice of this change. (Plaintiff found out when she attempted to get a prescription refilled at the pharmacy.)

On December 20, 2018, when Plaintiff learned that Defendant CITY was not planning to fumigate the City Hall East Building, she made a complaint to the California Division of Occupational Safety and Health (DOSH), better known as Cal/OSHA, regarding the Typhus outbreak, and the fact that she contracted Typhus. Also on December 20, 2018, Cal/OSHA sent a letter to Defendant CITY ATTORNEY'S OFFICE, notifying it that a complaint had been filed and giving it five days to respond. Plaintiff has been informed and therefore believes that Cal/OSHA has begun an investigation into her complaint.

Also on December 20, 2018, Plaintiff saw U.S. HealthWorks Medical Group ("U.S. HealthWorks"), which is the occupational medicine provider designated by EMPLOYER Defendants. The medical provider at U.S. HealthWorks designated Plaintiff as temporarily totally disabled from December 20 to December 21, 2018, and designated Plaintiff as temporarily partially disabled from December 21, 2018 through December 28, 2018. On the Injury Status Report, the medical provider wrote: "No Driving." On the Work Status Report, the medical provider wrote: "The patient has been advised not to drive or operate heavy equipment."

Since U.S. HealthWorks was the occupational medicine provider designated by EMPLOYER Defendants, Plaintiff assumed U.S. HealthWorks would notify EMPLOYER Defendants of her work restriction. (In fact, persons at U.S. HealthWorks told Plaintiff they would notify EMPLOYER Defendants of Plaintiff's "temporarily partially disabled" status.) Despite this, just to make sure there was no confusion and that her job was protected, on December 21, 2018, Plaintiff advised EMPLOYER Defendants of this work restriction. In her December 21, 2018 email to David Trujillo, Plaintiff wrote:

I went to the City doctor last night. He has put me on modified duty. My limitation is that I am unable to drive because of the vertigo. He said they would send you a copy of his report with the restriction. I go back on 12/27/18 for a follow up. Please let me know what else you need from me.

Defendants' response was swift and sure. Defendants immediately (that same day, only three hours later) sent Plaintiff a letter advising her that she was "absent without leave," and threatening to terminate her. The letter came from HR Analyst David Trujillo, who must know employees are not required to work under hazardous working conditions which present a serious risk of harm.

Plaintiff went to U.S. HealthWorks again on December 27, 2018, and the medical provider extended

Plaintiff's "temporarily partially disabled" status through January 7, 2019. On the Work Status Report, the medical provider wrote: "The patient has been advised not to drive or operate heavy equipment." Plaintiff emailed the Work Status Report and Injury Status Report to Defendant BRENTÉ and David Trujillo on December 28, 2018. In her December 28, 2018 email, Plaintiff advised both David Trujillo and Defendant BRENTÉ that she was available to work from home. (To date, she has not been assigned any work.) Out of an abundance of caution, Plaintiff's employment law attorney also emailed the December 27, 2018 reports from U.S. HealthWorks to Vivienne Swanigan (Managing Assistant City Attorney and Supervising Attorney of the Labor Relations Division) on January 7, 2019, and again on January 10, 2019.

Meanwhile, on December 31, 2018, Vivienne Swanigan sent a letter in which she acknowledged Plaintiff's medical reports putting her on leave through December 27, 2018, but ignored the Work Status Report and Injury Status Report Plaintiff had emailed to Defendant BRENTÉ and David Trujillo on December 28, 2018, and threatened Plaintiff's job by stating Plaintiff was absent without leave. Also in this letter, Vivienne Swanigan (a 33-year attorney, in a very high position in Defendant CITY ATTORNEY'S OFFICE) denied Defendant CITY ATTORNEY'S OFFICE had a duty to reasonably accommodate Plaintiff's disability of being unable to drive due to her severe vertigo. Also, rather incredibly, Vivienne Swanigan stated that Defendant CITY ATTORNEY'S OFFICE does not have access to Plaintiff's workers' compensation case records. Plaintiff had actually submitted her workers' compensation Employee's Report of Injury/Illness to the Human Resources Department within Defendant CITY ATTORNEY'S OFFICE. On the form, Plaintiff identified her illness as: "Typhus. Headache, fever, chills, stiff neck, rash, vomiting, vertigo, exhaustion." Plaintiff alleges based on information and belief that Defendant FEUER directed Vivienne Swanigan to send the December 31, 2018 letter.

Plaintiff again went to U.S. HealthWorks on January 7, 2019, and the medical provider extended Plaintiff's "temporarily partially disabled" status through January 21, 2019. Again, the restriction was that Plaintiff was "not to drive or operate heavy machinery." Plaintiff emailed the Work Status Report and Injury Status Report to HR Analyst David Trujillo on January 8, 2019. Out of an abundance of caution, Plaintiff's employment law attorney emailed the documents to Vivienne Swanigan on January 8, 2019, and again on January 11, 2019. When Plaintiff went to U.S. HealthWorks on January 21, 2019, this same restriction was continued through January 28, 2019. Again, Plaintiff emailed the reports from U.S. HealthWorks to David Trujillo, and Plaintiff's attorney sent them to Vivienne Swanigan.

On January 1, 2019, Plaintiff's health insurance was once again terminated.

In early January 2019, Plaintiff contacted the Los Angeles County Vector Control District and advised them that she had contracted Typhus while working at City Hall East.

On January 17, 2019, all named Defendants were served with Plaintiff's Department of Fair Employment and Housing Complaint (which she had filed on January 14, 2019). At Defendant CITY ATTORNEY'S OFFICE, the Complaint was received by Vivienne Swanigan.

Also on January 17, 2019, Vivienne Swanigan sent a letter stating that there was “no staff, no equipment, no authorization, and no funds” and “no plan” to fumigate City Hall East. Plaintiff alleges based on information and belief that Defendant FEUER directed Vivienne Swanigan to send the January 17, 2019 letter.

It was (and is) the position of Plaintiff and her attorney that EMPLOYER Defendants have a legal duty to reasonably accommodate Plaintiff’s commute-related limitations. Plaintiff repeatedly requested of David Trujillo, and Plaintiff’s attorney repeatedly requested of Vivienne Swanigan, that Plaintiff’s disability of not being able to drive because of the vertigo, dizziness, and disequilibrium which were caused by Typhus be reasonably accommodated. One such communication was in a January 22, 2019 letter from Plaintiff’s attorney to Vivienne Swanigan. Vivienne Swanigan’s response, in a letter dated January 25, 2019, was that she would not be communicating with Plaintiff’s attorney any further. Plaintiff alleges based on information and belief that Defendant FEUER directed Vivienne Swanigan to send the January 25, 2019 letter.

Also on January 25, 2019, Plaintiff filed the original Complaint in this action.

Plaintiff again went to U.S. HealthWorks on January 28, 2019, and the medical provider extended Plaintiff’s “temporarily partially disabled” status through February 11, 2019. Again, the Work Status Report stated that Plaintiff was “not to drive or operate heavy machinery.” The Work Status Report further stated: “In the event that your employee has restrictions and no modified work is made available, employer must keep employee off work unless, and until, such modified work is made available.” Plaintiff emailed the Work Status Report and Injury Status Report to HR Analyst David Trujillo on January 28, 2019, and Plaintiff’s employment law attorney emailed the documents to Vivienne Swanigan on January 28, 2019.

On January 29, 2019, Plaintiff was interviewed by Joel Grover of NBC 4 local news regarding her Typhus. On January 30, 2019, EMPLOYER Defendants were contacted by Joel Grover for comment.

The next day, on January 31, 2019, David Trujillo sent an email to Plaintiff in which he stated “driving or operating heavy equipment” were not “essential functions” of Plaintiff’s Deputy City Attorney position, and that Plaintiff was expected to report for work on Monday, February 4, 2019. In fact, Defendant BRENTÉ had stated in his June 12, 2017 memo titled “Essential Functions of Deputy City Attorneys in Police Litigation Unit”:

It should be noted that taking and defending depositions often involves travel both in southern California and across the United States the duties include defending the case at trial, which involves travel to and from court (by walking or car) While most of the cases are venued in downtown Los Angeles, some federal cases are assigned to the Santa Ana and Riverside courthouses, and some superior court cases are assigned to the San Fernando Valley or

other branch courthouses.

Plaintiff alleges that this January 31, 2019 order that she report for work was in retaliation both for Plaintiff filing and serving her DFEH Complaint and for her speaking to the media about contracting Typhus at City Hall East. Plaintiff further alleges on information and belief that Defendant FEUER directed that the January 31, 2019 order for Plaintiff to report to work be made.

Also on January 31, 2019, Plaintiff appeared on NBC Channel 4 News at 11:00 p.m. where she spoke about the Typhus she had contracted while working at City Hall East.

On February 1, 2019, Plaintiff sent an email to David Trujillo, in reply to his January 31, 2019 email ordering her to report to work. In her email, Plaintiff stated, among other things:

The conditions in City Hall East are a threat to the health of City employees and to the public health. The City Attorney's office has been contacted by Cal/OSHA about the threat to public health and has ignored their letter. From my understanding, the City Attorney has not even notified other departments that a City Attorney employee contracted typhus at City Hall East. No one has notified the Mayor's office.

The fact the City Attorney has known of this health threat since November 2018; known that a City employee has been diagnosed with typhus since December 2018; was contacted by Cal/OSHA December 20, 2018; has my medical records proving I have Typhus since January 10, 2019; and has done nothing about protecting the employees or the public entering the building is obscene. The City Attorney has not even notified others in the building that an employee was infected so they know of their exposure there or they can take precautions. I would also add that the rat problem at City Hall East is not new. This has been going on for years, and the City and the City Attorney's Office allowed the infestation to get so out of control that people are being exposed to a disease which is most often associated with devastating epidemics from the Middle Ages.

I have been employed by the City Attorney's Office for over 22 years, and am being treated like the trash which is lining the streets around City Hall East. I seriously doubt a male who is a 22-year deputy city attorney and contracted Typhus on the job would be treated as I have been and am being treated. I should not be surprised, though, as this discrimination on the basis of sex has been consistent behavior by the City Attorney's Office over the years.

I implore the City and the City Attorney's Office to protect the City

employees, clients, co-counsel and opposing counsel, witnesses, contractors, and the public from this public health crisis you are allowing to continue.

Also on February 1, 2019, EMPLOYER Defendants were served with the Complaint in this matter.

Also on February 1, 2019, Plaintiff was featured in the *Daily Mail* in an article called "LA City Hall Official Is the Latest Struck by Typhus in the City's Raging Epidemic." The article reads, "Liz believes the rats that nestle in the building's trash were carrying fleas that transmitted the disease." The article further reads: "She has yet to go back to work, and is calling on the city to fumigate the building before she does 'because I thought I was going to die.'"

On February 4, 2019, Plaintiff was interviewed on John and Ken (KFI AM 640 Radio and Podcast) and she spoke at length about the Typhus outbreak, about the fact that she had contracted Typhus while working at City Hall East, and about the fact that Defendant CITY and Defendant CITY ATTORNEY'S OFFICE had refused to fumigate.

On or about February 5, 2019, Plaintiff told Oscar Winslow, President of the Los Angeles City Attorneys Association (LACAA), about her Typhus diagnosis. Mr. Winslow was very surprised, since no one at Defendant CITY ATTORNEY'S OFFICE had told its employees anything about protecting themselves from Typhus-carrying fleas. Something as simple as advising employees to wear boots would have provided them a small amount of protection.

On February 6, 2019 (only three workdays after EMPLOYER Defendants were served with the Complaint in this matter, and within days of Plaintiff speaking to various media about contracting Typhus while working at City Hall East) David Trujillo sent Plaintiff an email notifying her that she was expected to report to her new supervisor Julie San Juan at her new work location at the Pacific Office, Criminal Branch (11701 S. La Cienega Boulevard, Los Angeles 90045) on February 11 (even though Plaintiff had previously submitted documents from U.S. HealthWorks stating that she was "temporarily partially disabled" and was "not to drive or operate heavy machinery" through February 11, 2019). In this position, Plaintiff would be handling misdemeanor arraignments at the Pacific Office, Criminal Branch. A change in assignment from working in the Police Litigation Unit, where she was defending Defendant CITY in million dollar cases, to a position handling misdemeanor arraignments (which is an entry-level job) was humiliating and demeaning. This was clearly a change to an inferior position, with much less status than the position Plaintiff had held with the Police Litigation Unit, and was therefore an involuntary and wrongful demotion. Additionally, this demotion did nothing to address the accommodation Plaintiff needed relating to her inability to drive due to vertigo caused by the Typhus. Plaintiff alleges that this February 6, 2019 demotion was in direct retaliation for her continued complaining, both internally and to the media, about the Typhus epidemic and, specifically, at City Hall East. Plaintiff further alleges on information and belief that Defendant FEUER directed Plaintiff's demotion from working in the Police Litigation Unit to handling misdemeanor arraignments at the LAX courthouse for the Pacific Office, Criminal Branch.

On February 7, 2019, Plaintiff appeared on the Channel 5 11:00 a.m. News, on the Channel 11 News at 1:00 p.m., and on John and Ken (on KFI AM 640 Radio and Podcast) at 3:00 p.m..

Also on February 7, 2019, Plaintiff was featured in an article in the *Los Angeles Times* titled "L.A. City Hall, overrun with rats, might remove all carpets amid typhus fears." This article discusses the rat infestation at City Hall and a proposition to remove all of the carpet from City Hall and the adjoining buildings. Plaintiff was featured in the article and was quoted as saying:

I am actually terrified of entering the building again until they do something" and "that carpet is years old—and, more than likely, it has fleas and flea eggs in it" and "I would really like to see the building fumigated for both rats and fleas . . . I hope they don't wait.

Also on February 7, 2019, Plaintiff was featured on KTLA (Channel 5), again speaking out about the Typhus epidemic and about the fact that she contracted Typhus while working at City Hall East. That same day, Plaintiff was featured on the front page of the *Daily Breeze*, in an article titled "Deputy LA City Attorney in San Pedro goes public with typhus bout prompting City Hall to take notice."

The very next day (February 8, 2019), knowing Plaintiff had previously submitted documents from U.S. HealthWorks stating that she was "temporarily partially disabled" and was "not to drive or operate heavy machinery" through February 11, 2019, David Trujillo sent Plaintiff an email with instructions regarding where she was to park on February 11, when she reported for her new (demoted) assignment handling misdemeanor arraignments at the Pacific Office, Criminal Branch. Plaintiff replied via email, stating:

We are preparing a response to your sudden and unexpected change demotion in my job to an entry level assignment I have not done in over 20 years. The airport courthouse is not accessed by train and will require a two mile walk and three separate bus rides. It is more complicated than City Hall East. Further, as you are aware since you have had the document for two weeks, I have a doctor's appointment at US HealthWorks in downtown at 1:30 in the afternoon. Is someone driving me there and back? You should know the appointments may take up to 4 hours. I will have to leave the airport shortly after arrival in order to make my appointment if you are expecting me to take public transportation.

I am wondering if this demotion is until OSHA clears the building and I am able to enter without putting my life at risk.

On Saturday, February 9, 2019, Plaintiff was mentioned in an article in the *Los Angeles Times* titled "L.A. officials target vermin at City Hall." On Sunday, February 10, 2019, Plaintiff was featured in an article on the front page of the "California" section titled, "She's 'the canary in the coal mine.'"

Plaintiff's photograph was included, with a caption which read: "L.A. DEPUTY CITY ATTY, Elizabeth Greenwood said flea bites at City Hall gave her typhus. Her bosses didn't believe she had the disease, she said."

On February 11, 2019, Plaintiff once again went to U.S. HealthWorks, where she was once again designated as "temporarily partially disabled." Since Plaintiff was going to see the City-designated infectious disease specialist on February 14, the doctor at U.S. HealthWorks extended her disability period only through February 14, 2019. Plaintiff emailed the Work Status Report and Injury Status Report to HR Analyst David Trujillo on February 11, 2019.

Also on February 11, 2019, Plaintiff sent David Trujillo a very long email, stating her objections to the demotion to the Pacific Office, Criminal Branch (handling misdemeanor arraignments at the LAX courthouse). Among other things, Plaintiff wrote:

In early December 2018, I reported the typhus danger to Los Angeles County Health Department, Acute Communicable Disease Department. On December 20, 2018, I reported the typhus danger at City Hall East, and the City Attorney's refusal to take any action to protect its employees, to Cal/OSHA. In early January 2019, I reported the same health dangers the City Attorney was knowingly allowing to persist to Los Angeles County Vector Control District.

I also filed a complaint with the Department of Fair Employment and Housing, which was served on the City Attorney's Office on January 17. Later in January, after the City Attorney's office continued to stonewall me over the public health issue it was allowing to persist, I started talking to NBC. I talked to Joel Grover about the failure of the City Attorney's Office to protect me and then for the past several months its employees (and the members of the public who visit City Hall and City Hall East) from typhus. We discussed at length the City Attorney's Office had known about this for months and had not even sent a department wide email warning employees about the danger they faced.

The day after the City Attorney's administration received a call from Joel Grover regarding safety precautions taken after my diagnosis, on January 31, you sent me an email once again ordering me back to work "or else," despite the orders from U.S. HealthWorks—the City's own industrial medicine provider. You falsely stated "driving or operating heavy equipment" is not an essential function of my job. I replied to your email by my email dated February 4. In case you do not recall the contents of my email, I stated:

The City of Los Angeles created an environment in which I was injured, badly. The standard you should be looking at is one of reasonable accommodation, not "essential function." However, since you brought it up, driving a vehicle is an essential function of my job. I am required to attend depositions as well as depose plaintiffs, defendants, and witnesses offsite. Further, I am required to attend court hearings all over Los Angeles, Riverside, and Orange Counties.

How the City Attorney could knowingly expose its employees to this horrible bacteria is shocking to me. The fact it knowingly exposes the public, who enters the building every day to conduct business, is criminal. The fact that you, Vivienne Swanigan, and the City Attorney's office are retaliating against me for standing up for my legal rights and for speaking out and telling people the danger they face walking into that building is unconscionable. . . .

My loud and repeated whistling to the Department of Fair Employment and Housing, the Los Angeles Superior Court, Cal/OSHA, the Los Angeles Vector Control District and the media has resulted not in the City Attorney's Office doing the right (and smart) thing, but instead in you (and Vivienne Swanigan) sending the February 6, 2019 email in which you advise me that I am being transferred to the airport courthouse, where I will be a misdemeanor line deputy doing misdemeanor arraignments. This is so obviously a demotion it constitutes unlawful retaliation under common law and several sections of the Labor Code. (My attorney is currently amending the lawsuit to include the latest acts against me.)

On February 12, 2019, David Trujillo sent an email to Plaintiff in which he stated: It appears you are rejecting the assignment to the Pacific Branch as a reasonable accommodation. Therefore, we will continue to look for alternative positions; however, at present, no positions are available in the Port or Harbor area. In the meantime, as a reasonable accommodation, the Office will allow your Personal Medical Leave for yesterday, Wednesday, and Thursday [February 11, 13, and 14] and will utilize your 75% sick time for those days, as requested. The Office will also credit you with 4 hours for your participation in the reasonable accommodation process this pay period in order to allow you to reach the 40 hour threshold needed to maintain your medical coverage.

(Plaintiff had attended a LACERS meeting all day on Tuesday, February 12; her mother drove her

to the meeting and her domestic partner drove her home.)

On February 13, 2019, Plaintiff filed a complaint with the U.S. Department of Occupational Safety and Health Administration (Federal OSHA) alleging retaliation for filing a complaint with CalOSHA regarding safety and health hazards at her workplace.

On February 14, 2019, Plaintiff saw infectious disease specialist Richard T. Sokolov, M.D. (another City-designated doctor). Dr. Sokolov directed that Plaintiff be off work for the next three weeks. Dr. Sokolov told Plaintiff that since she was still suffering from vertigo, her brain had not recovered from the Typhus, so she should not be working. Dr. Sokolov also stated it was his professional opinion that Plaintiff had contracted the Typhus while working at City Hall East.

Also on February 14, 2019, Plaintiff sent another very long email to David Trujillo. Among other things, Plaintiff wrote:

I object to the term "Personal Medical Leave" since this is leave which is necessary because of an on-the-job injury, and for which I have filed a workers' comp claim. I am also confused regarding what this means. It is not clear to me whether the medical leave is intended to be from now until the City Attorney's Office comes up with an appropriate reasonable accommodation, or whether it is only for Monday, Wednesday, and Thursday of this week. That question is probably not that important now, though, because today I saw the infectious disease doctor Richard Sokolov, M.D. (who U.S. HealthWorks referred me to and will be my industrial injury treating physician), and he put me off work for three weeks, effective today. A copy of Dr. Sokolov's prescription placing me off work is attached to this email.

I cannot tell you how disappointing it is to see the level of indifference the City Attorney's office has shown to me, to the safety of the employees who work in City Hall East, and to the health of the members of the public forced to come to the building to conduct their business with the City. This office has been on notice of my illness since November 27, 2018. Their failure to act, their failure to even notify people of the danger they face walking into the building is grossly negligent and a complete abdication of the public trust.

On both Saturday, February 16, and Sunday, February 17, Plaintiff was again mentioned in articles in the *Los Angeles Times* regarding the Typhus epidemic and the rat and flea infestation at City Hall and City Hall East.

On February 22, 2019, the Acting Human Resources Director, Stephanie B. Ybarra, sent Plaintiff

a letter advising her that her "request for a personal medical leave of absence extension" had been "approved as a reasonable accommodation for the continuous period of February 11, 2019 through March 7, 2019." In a total denial of their part in causing Plaintiff's injuries, EMPLOYER Defendants continue to use the terms "personal medical leave of absence" and "reasonable accommodation" even though Plaintiff was unable to work because of an on-the-job injury, Plaintiff had filed a workers' compensation claim, and the City-designated infectious disease specialist had stated Plaintiff was unable to work. The letter was also emailed to Julie San Juan, Plaintiff's new supervisor at her new assignment at the Pacific Office, Criminal Branch.

Later on February 22, 2019, Plaintiff sent an email to David Trujillo in which she wrote:

I received your letter granting personal medical leave until March 7, 2019, due to my recovering from the typhus I contracted at work. My next doctor's appointment is March 14, 2019, so I am unsure how you wish for me to go to work, or to where you expect me to report prior to my next doctor's appointment. I will not have a medical release before that appointment.

I have still not received a phone call from anyone at the City Attorney's office inquiring about my health. I mention that because it is shockingly rude and insensitive. Nor have I received any communication whatsoever that resembles a conversation about what would be a reasonable accommodation after management let the health and cleanliness conditions in City Hall East reach the point that I almost died. I have only received orders to show up at different work sites for different jobs.

Our last communication involved my unilateral and involuntarily transfer. I called my association for assistance because involuntary transfers involve the MOU, and in my case also violate Whistleblower statutes. Someone told Oscar Winslow, the Association President, that I requested the transfer. I did not. That was a lie. I asked you with which supervisor I should begin the grievance process. You replied characterizing my response as a refusal of your reasonable accommodation but never answered my question about which supervisor I should contact.

Based on your response I incorrectly assumed that transfer was not going to happen. Julie San Juan was included in today's email, but not Cory Brenta. Should I assume the office is continuing with the illegal unilateral involuntary transfer?

I look forward to your rapid response.

David Trujillo responded (on February 22) that the transfer to the Pacific Office, Criminal Branch was "no longer happening."

As of this date, Plaintiff has still not returned to work, because she is still suffering from severe vertigo, dizziness, and disequilibrium and is therefore unable to drive, and because the building where her office is located has still not been fumigated. Additionally, the electric high-adjustable desk and electric high-adjustable chair which Plaintiff requires in order to be able to work without extreme pain to her lumbar spine have still not been delivered to her office. (Having to bend over and manually lower or raise a desk and chair several times per day is counterproductive to accommodating Plaintiff's lumbar spine injury.)

Plaintiff has repeatedly requested that the building where she works (City Hall East) be fumigated before she returns to work. Even though Defendant CITY began fumigating other buildings in October 2018, EMPLOYER Defendants have failed and refused to fumigate City Hall East. (The Los Angeles Police Department buildings have been fumigated on about October 10, October 26, and December 14, 2018.) Plaintiff has pointed out that, because of her auto-immune disorder, she is at greater risk than others for re-contracting Typhus, but EMPLOYER Defendants have still failed and refused to fumigate City Hall East.

Plaintiff's current medical leave expires March 7, 2019, even though her next appointment with Dr. Sokolov is not until March 14, 2019.

Plaintiff remains under the care of her general physician (Terry Ishihara, M.D.), her pain management doctor (Fabian Proano, M.D.), her gynecologist (Reza Askari, M.D.), and her endocrinologist (Olga Caloff, M.D.) for treatment of all her medical conditions except the Typhus. For the Typhus, Plaintiff is still being treated by the doctors at United HealthWorks, and the City-designated infectious disease specialist, Richard T. Sokolov, M.D.

G:\99\18004\DFEH Complaint\Third DFEH Complaint Attachment.wpd

EXHIBIT 4

TO FIRST AMENDED AND SUPPLEMENTAL COMPLAINT OF ELIZABETH L. GREENWOOD

PROOF OF SERVICE

I, Deena Kinzer, declare under penalty of perjury that I am over the age of 18 years and not a party to this action, and that on this date I served the individuals listed below with the following documents:

- 1) Notice of Filing Discrimination Complaint (with the Department of Fair Employment and Housing, Case No. 201903-05344505)
- 2) Notice of Case Closure and Right to Sue (issued by the Department of Fair Employment and Housing, Case No. 201903-05344505)
- 3) Complaint of Employment Discrimination Before the State of California Department of Employment and Housing Under the California Fair Employment and Housing Act (Gov. Code §§ 12900, *et seq.*) (Department of Fair Employment and Housing, Case No. 201903-05344505)

Individuals served:

OFFICE OF THE CITY CLERK
200 North Spring Street
Room 395, City Hall
Los Angeles, CA 90012

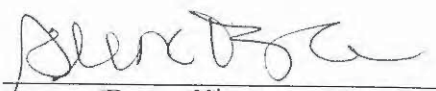
MICHAEL N. FEUER
c/o OFFICE OF THE LOS ANGELES CITY ATTORNEY
200 N. Main Street, 9th Floor, City Hall East
Los Angeles, CA 90012-4131

OFFICE OF THE LOS ANGELES CITY ATTORNEY
Attn: Vivienne Swanigan, Managing Assistant City Attorney and Supervising Attorney, Labor Relations Division
200 N. Main Street, Room 800, City Hall East
Los Angeles, CA 90012-4131

OFFICE OF THE LOS ANGELES CITY ATTORNEY
Attn: Cory Brente, Supervising Assistant City Attorney
200 N. Main Street, Room 800, City Hall East
Los Angeles, CA 90012-4131

Service was made by placing a copy in a separate envelope, with postage fully prepaid, addressed to the individual listed above at the address listed above, and depositing it in the U.S. Mail at Torrance, California, via certified mail with return receipt requested. [Gov. Code § 12962(b).]

Executed on March 18, 2019 at Torrance, California.


Deena Kinzer

1 **ESKRIDGE LAW**

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10 Attorneys for Plaintiff ELIZABETH L. GREENWOOD

11
12 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**
13 **COUNTY OF LOS ANGELES – CENTRAL DISTRICT**
14

15 ELIZABETH L. GREENWOOD,
16
17 Plaintiff,

18 v.

19 CITY OF LOS ANGELES, a municipal
20 corporation; OFFICE OF THE LOS
21 ANGELES CITY ATTORNEY, a
22 department of the CITY OF LOS ANGELES;
23 MICHAEL N. FEUER, CITY ATTORNEY,
24 an individual; CORY BRENTE, an
25 individual; and DOES 1 through 20,
26 inclusive,

27 Defendants.
28

CASE NO.: 19STCV02469

PROOF OF SERVICE

Dept: 73
Judge: Hon. Rafael A. Ongkeko
(and Hon. Christopher K. Lui)

Case Filed: January 25, 2019
CMC: May 24, 2019
Trial Date: Not set

29 I, Deena Kinzer, declare under penalty of perjury that I am over the age of 18 years and not a party
30 to this action, and that on this date I served the individuals listed below with the following documents:

31 **FIRST AMENDED AND SUPPLEMENTAL COMPLAINT**
32
33
34
35
36
37
38

1 Individuals served:

2 **BURKE, WILLIAMS & SORESENSEN, LLP**
3 **Attn: Susan E. Coleman and**
4 **Paloma P. Peracchio**
5 **444 South Flower Street, Suite 2400**
6 **Los Angeles, CA 90071-2953**

Attorneys for Defendants CITY OF LOS
ANGELES, OFFICE OF THE LOS
ANGELES CITY ATTORNEY, MICHAEL N.
FEUER, and CORY BRENT

7 Service was in the manner checked and on the date set forth below:

- 8 1) _____ By personally delivering copies to the individual listed above at the address listed
9 above. [*Code Civ. Proc. § 1011*]
- 10 2) _____ By personally delivering copies to the office of the individual listed above at the
11 address listed above, in a package clearly labeled to identify the person being served,
12 with a receptionist or with a person in charge. [*Code Civ. Proc. § 1011*]
- 13 3) _____ By personally leaving copies in a conspicuous place at the office of the individual
14 listed above at the address listed above, between the hours of 9:00 a.m. and 5:00
15 p.m. [*Code Civ. Proc. § 1011*]
- 16 4) ✓ _____ By placing a copy in a separate envelope, with postage fully prepaid, addressed to
17 the individual listed above at the address listed above, and depositing it in the U.S.
18 Mail at Torrance, California. [*Code Civ. Proc. §§ 1012 and 1013(a)*]
- 19 5) _____ By sending a copy directed to the individual listed above, via facsimile machine to
20 the following facsimile number:
21
22 XXX/XXX-XXXX
23 [*Code Civ. Proc. § 1013(e)*]
- 24 6) _____ By depositing a copy in a Federal Express box, in an envelope designated by Federal
25 Express with delivery fees paid or provided for, addressed to the individual listed
26 above, at the address listed above. [*Code Civ. Proc. § 1013(c)*]

27 Executed on May 21, 2019 at Torrance, California.

28

/s/ DEENA KINZER
Deena Kinzer